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In a report published in 1962, it was concluded that total school desegregation in North Carolina was not likely in the forseeable future unless forced by court decrees. The basis for the prediction was the history of application of two Acts--the Pupil Assignment Act, which transferred authority of pupil assignment to local school boards, and the Pearsall Plan, which provided "safety values" to assure escape possibilities for intolerable situations.

A year after the first report, the new approach taken by the courts, particularly the Durham and Caswell cases, together with an awakening of Negroes to their civil rights, point to a growing decline in school segregation. Several counties in Western North Carolina, Yancey and Transylvania among them, have been ordered by Federal district courts to desegregate their public schools to permit their Negro students to remain in the county rather than travel long distances to other communities which have Negro schools. The Caswell and Durham decisions held that, if a school board's policy under the Pupil Assignment Act is one of segregation, a plaintiff need not exhaust his administrative remedies, as outlined in the Act, in order to bring a suit before court and prohibit further discrimination.

While some progress has been made, the court of appeals still retains the distinction between enforced segregation and enforced desegregation. The present interpretation is that segregation is prohibited but integration is not required. The "free choice" plan for voluntary integration has been used in Caswell County and Charlotte-Mecklenburg, but Negro response has been limited.

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Staff Report Submitted To

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

and Authorized for Publication

Bennett O. Stalvey

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PUBLIC SCHOOLS

SOUTHERN STATES

1963

NORTH CAROLINA

By Richard E. Day

Staff Report Submitted To
THE UNITED STATES COMMISSION ON CIVIL RIGHTS
and Authorized for Publication

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Preface

This report is the second of its kind prepared by this investigator within the last two years. Like its predecessor, this report is a product of legal research and personal interviews with interested North Carolinians, including school officials and white and Negro community leaders. The previous report covered the progress of desegregation in the public schools of North Carolina from the Supreme Court's decision in the School Segregation Cases in 1954 through the 1961-62 school year; the present report is limited to significant progress and events during the 1962-63 school year.

Unless otherwise indicated by notes to secondary sources, all statements of fact or opinion in the report were derived from interviews or are based upon the author's personal observation. Every effort was made to verify facts obtained in interviews but, in spite of precautions, error is possible, and the author takes responsibility therefor.

Sincere thanks are extended to all who aided the reporter in gathering and preparing his materials, many of whom cooperated with him in his prior attempt to fit together the pieces of the North Carolina public school desegregation puzzle.

June 10, 1963

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Introduction

In a report published in October 1962 this writer concluded that "a totally desegregated State-wide public school system is not likely in North Carolina in the foreseeable future, unless forced by court decrees."[1] The basis for this prediction was the history of the application and interpretation of the North Carolina Pupil Assignment Act by school authorities and and the Federal courts, which, to that time, had presented an "insurmountable barrier to anything more than token desegregation."[2]

The Pupil Assignment Act,[3] passed in April 1955, as a reaction to the School Segregation Cases,[4] transferred "complete authority" for the enrollment and assignment of pupils from the State Board of Education to city and county school boards. The avowed purpose of this legislation was to make the 173 local school administrative units severally the party to any future litigation and thereby avoid State involvement as a defendant in any desegregation suit, so that the decision in one lawsuit would not be binding upon all units.[5] The only criteria set out in the statute to guide the local boards in assigning pupils were the "best interests" of the child, "orderly and efficient administration of the schools," the "effective instruction" of the pupils, and "the health, safety, and general welfare" of the students. Race was not mentioned. The statute further provided for requests for reassignment and for local administrative and judicial appeals by individual applicants whose transfer requests were denied. The effectiveness of this new act as a barrier to desegregation was quickly established by the Court of Appeals for the Fourth Circuit in its decision in Carson v. Board of Education (McDowell County):[6]

> Where the state law provides adequate administrative procedures for the protection of such rights, the Federal Court manifestly should not interfere with the operation of the schools until such administrative procedures have been exhausted and the intervention of the Federal Court is shown to be necessary.

The courts have continued to reiterate the requirement that pupils must exhaust the administrative remedies provided by the act and that constitutional rights must be asserted as individuals, not as a class.[7] In prohibiting a class action, the courts emphasized that the School Segregation Cases did not require integration in the schools, but only prohibited enforced segregation.[8]

To establish that he has exhausted his administrative remedies under the act, in "good faith" the pupil has been required by the courts (1) to show that he did not ask for reassignment merely because he desires to attend a desegregated school;[9] (2) to indicate specifically the school that he desires to attend with the reasons for the request for reassignment;[10] and (3) to present himself or his parent or guardian at the board's hearing to answer questions by the board.[11] Once the pupil has established that he has exhausted his administrative remedies "in good faith" he then has the burden of proving that his request for reassignment was denied by the local board on the basis of race.[12] Even in those cases where relief was granted, its individual nature left the board's assignment of other Negro students unaffected.[13]

North Carolina's Pearsall Plan, named after the chairman of a special advisory committee on education appointed by the legislature following the School Segregation Cases,[14] bolsters the Pupil Assignment Act. Legislation enacted in 1956, on the recommendation of this committee (which expressed the opinion that the people in North Carolina would not support integrated schools), provided two "safety valves" to assure "escape possibilities for intolerable situations."[15] This statute provides for (1) a tuition grant for any child assigned against his wishes to a desegregated school, such grant to be made only for education in a State-approved nonsectarian school,[16] and (2) authority to any local unit to discontinue the operation of its public schools after a majority of the electors vote to do so.[17] Aside from an abortive attempt by a Chapel Hill parent to obtain tuition grants for his two children during the 1961-62 school year,[18] there has been no effort to invoke either of these provisions. However, there was talk of the possibility of attempting to close schools in Caswell County following court-ordered desegregation.[19]

The Macrocosm--Progress, Procrastination, and Proselytism

On October 12, 1962, the Court of Appeals for the Fourth Circuit, in two decisions involving the public schools in Durham[20] and in Caswell County,[21] took measured steps away from the dual obstacles created by the requirement that administrative remedies be exhausted before suit is brought and the denial of actions for the benefit of all members of the plaintiff's class. These twin decisions, whose histories and holdings are discussed more fully elsewhere in this report[22] and in the Southern States Report,[23] have reduced potential use of the Pupil Assignment Act to maintain segregation or limit desegregation to token proportions. In reversing the district court's decision in each of these cases the court of appeals held that once it is established that the school board is maintaining segregation policies through its administration of the Pupil Assignment Act, a pupil need not exhaust the administrative remedies provided by that act and may bring a "spurious class suit" to have further discrimination enjoined.

While the Durham and Caswell decisions are significant developments in the current law involving public school desegregation in North Carolina, they came too late to affect the segregation policies in other public school districts in the 1962-63 school year.

North Carolina, in general, made little progress in desegregating its public schools in 1962-63.[24] Seven communities joined the 11 that had 1 or more desegregated schools during the prior school year, but still only 0.25 percent of the total number of Negro students in North Carolina attended school with white children, and 155 of the State's 173 school districts still operated on a totally segregated basis.

Even in those communities which desegregated voluntarily, the prevailing attitude of school officials remained one of containment and tokenism. Only in Yancey County, which had an enrollment of 28 Negro pupils, did a significant percentage of the total Negro enrollment attend desegregated schools. There, the court ordered the board to stop transporting Negro students out of the county to attend school in Asheville--approximately an 80 mile round trip daily. The order directed the board to admit the eight high school plaintiffs to the white high schools in Yancey County.[25] Thus, although the assignment of the Negro elementary pupils to a new two-room Negro school was not affected by the court order, about one-third of the total number of Negro school children in the county were admitted to the white high school. In the other 17 communities which had some

desegregation in 1962-63, the percentage of Negro pupils attending schools with whites ranged from 0.02 percent to 3.42 percent.

Asheville and Chapel Hill continued their geographical assignment plans, and a limited geographical "option" plan applicable to certain schools in the Charlotte-Mecklenburg school system was in operation but in each case the effects were minimal. In Craven and Wayne Counties only children of Negro servicemen stationed at nearby bases were admitted to schools serving white pupils. With these exceptions, individual assignment and reassignment under the State Pupil Assignment Act remained the mode of operation.

DURHAM

Under the pressure of two desegregation suits, Wheeler v. Durham Board of Education, and Spaulding v. Durham Board of Education,[26] the Durham Board voted in July 1961 to abandon immediately the use of separate attendance area maps for white and Negro schools which had been criticized by the district court although no order had been issued to change it.[27] In their place the board adopted a single map establishing geographic attendance zones for all schools for the assignment of first-grade pupils beginning with the 1962-63 school year. The sole Negro member of the board moved to employ the map for the assignment of all elementary school children and junior and senior high school pupils as well, but the motion failed for lack of a second. Approximately 40 Negro first-graders were assigned to white schools under the new attendance area map. All applications for transfer from white first-graders assigned to Negro schools under the new plan were granted, leaving these schools 100 percent Negro as before. Many of the 40 Negro first-graders assigned to white schools requested and received transfers back to Negro schools.

The district court found, in the Wheeler and Spaulding[28] cases, handed down on July 20, 1961, that some of the practices of the board were discriminatory but denied relief to all individual pupils who had not exhausted their administrative remedies. As to the remaining pupils, the court ordered the board to re-examine their applications for transfer. Of the 133 transfer applications re-examined, the board denied all but 8. In its supplemental opinion of April 11, 1962,[29] the district court refused further relief and dismissed the complaints on the ground that the plaintiffs "are still not seeking reassignment to any particular school,"[30] but "simply want nothing more or less than a general order of desegregation."[31]

The Court of Appeals for the Fourth Circuit reversed and remanded the Durham[32] cases. The court noted that the Durham board had assigned first grade children to segregated schools in accordance with dual attendance area maps for the 1959-60, 1960-61, and 1961-62 school years, as indeed, it

had historically; that all Negro pupils had been assigned initially to the first grade in one of seven[33] Negro elementary schools on the basis of the Negro school zone map; and that graduates from the elementary schools had been assigned to segregated junior high schools. There are only two high schools in the city--one for whites and one for Negroes-- and pupils had been automatically reassigned to the schools attended the previous year or to the designated receiving schools.

The court of appeals agreed with the district court's conclusion that the use of dual attendance area maps "offends the constitutional rights of the plaintiff"[34], but it was dissatisfied with the lower court's inaction. Although the Durham board had resolved on July 27, 1961, "that the future use of dual attendance area maps be discontinued, effective immediately," the court of appeals observed that the board had taken no action to remedy the school assignments for the 1961-62 school year and that, despite the board's resolution, it continued the use of dual attendance area maps to maintain segregated schools in the city. The court thus concluded that "the uncontradicted evidence in this case is irreconcilable with the statement of the district court in its supplemental opinion of April 11, 1962, that 'the dual attendance area maps * * * have been eliminated.'"[35] The court held that the board's action in assigning pupils according to race was an unconstitutional administration of the Pupil Assignment Act. For reasons stated in the Caswell case,[36] decided the same day, the pupils in the Durham cases were granted an order for their admission in the 1962-63 school year to the schools to which they had applied. The court also issued a declaratory judgment that the board's administration of the Pupil Assignment Act was unconstitutional, and granted an injunction prohibiting further discriminatory practices by the board. As in the Caswell case, the injunction was designed to control all future assignments of pupils "unless and until the defendants submit to the district court a suitable plan for ending the discrimination."[37] To be approved, such a plan "should provide for immediate steps looking to the termination of the discriminatory practices 'with all deliberate speed' in accordance with a specified time-table."[38]

On November 12, 1962, prior to the action by the district court after the cases were sent back to it, the Durham board assigned 108 students to school on the old geographical assignment system. On December 11, 1962, the board named a 3-man committee composed of two whites and one Negro to work out a permanent plan of assignment pursuant to the decision of the court of appeals.

After meeting with attorneys for both sides, the district court issued its order on January 2, 1963.[39] The Negro children who were plaintiffs in the Durham cases were to be assigned to the schools of their choice for the second semester of the 1962-63 school year. In addition, the

order provided that the Durham board offer an acceptable plan for desegregation of its schools by May 1, 1963, or be subject to a court-directed plan. The order required the board, if it failed to submit an acceptable plan by July 1, 1963, to give suitable notice no later than August 15, 1963 to every child enrolled in the Durham school system at the end of the 1962-63 year, that they have "complete freedom" to attend a school of their choice at the beginning of the 1963-64 school year.

Approximately 275 Negro children were originally involved in the two suits consolidated for trial, but, since some were plaintiffs in both actions, some had graduated, and others had moved out of town or dropped out of school after the start of the suits, only 183 remained subject to transfer under the court's order. The board assigned the 183 students to predominantly white schools and requested their parents to notify the superintendent if they wished the children to remain in the schools in which there were enrolled. Most of the 183 pupils declined to change schools at the beginning of the second semester. Many indicated, however, that they would like to change at the beginning of the 1963-64 school year. On the opening day of the second semester, 39 of the Negro children actually enrolled in predominantly white schools; 9 went to Durham High School, 14 to Carr Junior High, 6 to Holton Junior High, 4 to Edgemont, 4 to Morehead, 1 to Holloway Street and 1 to Y.E. Smith elementary schools. The board denied requests by 16 of these to remain in their old schools because of the lateness of the requests. A total of 81 Negro students was enrolled in formerly white Durham schools during 1962-63. According to the superintendent, one Negro transferred back to Hillside High School from Durham High School in order to play basketball, because he wanted to be a coach.

Following the special committee's report, from which the Negro board member dissented, the board submitted to the district court its "Plan for further Integration of the Durham City Schools." The board's plan was substantially the same as that adopted on May 14, 1962. It incorporated the single attendance area map for all elementary schools which was adopted at that time. However, the plan expanded the application of the zones to cover all the elementary school grades instead of limiting it to the first grade as it was applied in 1962-63.

The plaintiffs opposed the defendant's plan as "inadequate, unreasonable, inequitable and incomplete . . ." and alleged that the attendance area map had been "gerrymandered" on a racial basis.[40] Under the board's proposed plan, first grade pupils were to be assigned initially to the elementary school "located in the attendance area in which the pupil resides." Aside from the gerrymander objection, plaintiffs did not object to this provision in the plan. As to pupils already enrolled in school, the plan permitted those previously assigned to an elementary school outside of

their new attendance areas to request transfer to the school serving the zone of their residence within a 10-day period. This provision was challenged by plaintiffs because it placed a burden on the parents or guardians to request transfers for their children within the specified time period instead of requiring the board to make nondiscriminatory initial assignments. In addition, plaintiffs attacked this provision for its failure to give pupils already enrolled in school an unqualified right to attend the schools within their attendance areas.

The plaintiffs also contested the constitutionality of the feeder system which, it was alleged, constituted a continuation of the previous practice in that it initially assigned pupils to a school which had traditionally served the graduates of particular white or Negro schools. According to the plaintiffs, this practice "operates to perpetuate the racially-segregated school system previously established by the defendant." An exception to this general practice was found in the case of two feeder schools and two receiver schools, specifically set out in the proposed plan. Pupils having successfully completed the course of instruction at Crest Street (Negro) Elementary School were to be assigned to Carr Junior High School and pupils completing the course at Walltown (Negro) Elementary School were to be assigned to desegregated Brogden Junior High School. These two exceptions were not challenged by the plaintiffs.

If Negro students in these two elementary school zones were required to attend the Negro junior high (Whitted) and high school (Hillside) they would have to pass the predominantly white junior (Carr) and senior (Durham) high schools both of which were about half the distance from the Negro receiving schools. Under the proposed plan, however, Negroes from East End Elementary School must pass through the white zones of Fuller and Edgemont to attend the Negro junior and senior high schools and Negroes from Lyon Park must cross Morehead, while white students, from Lakewood and Holloway Street Schools "jump" these Negro zones to attend the predominantly white junior and senior high schools.

Although the proposed plan continued the district's traditional feeder system for the most part, it stated that a proposal for further desegregation of the junior and senior high schools would be submitted not later than May 1, 1966, to become effective at the opening of the school year 1966-67. This delay was attacked by the plaintiffs as "unjustified and unreasonable and . . . not necessitated by any administrative obstacles to desegregation of the kind contemplated by Brown v. Board of Education."[41] The board's plan provided that prior to 1966, pupils might apply for transfer under the provisions of the Pupil Assignment Act, and that the application for transfer would be considered under the standards and criteria adopted by the board in July 1961. These were:[42]

1. The relation of residence location of the pupil to the school to which the pupil will be assigned or seeks reassignment to another school;

2. The proper and most effective utilization of the physical facilities available and the teacher load in the school as well as the total enrollment in the school;

3. Academic preparedness and past achievement of the pupil;

4. Factors involving the health and well being of the pupil;

5. Physically handicapped pupils;

6. Bona fide residence in the administrative school unit;

7. Morals, conduct, deportment, and attendance record of pupil seeking assignment or reassignment; and

8. Efficient administration of the schools so as to provide for the effective instruction, health, safety, and general welfare of the pupil.

Plaintiffs challenged this proposal on two grounds: first, that it had been declared unconstitutional as administered; second, that it failed to provide a reasonable and nondiscriminatory method for reassignment.

The board's plan required children not assigned prior to the opening of the school year and those moving into the administrative unit during the school year to apply for assignment. This provision was contested by the plaintiffs as failing to provide standards for the assignment of pupils moving into the administrative unit during the school year. The board also reserved the right to change the assignment of any pupil at any time "as the necessity therefore may arise." This absolute discretion to change the assignment of pupils was challenged because of the absence of any standards which would govern the exercise of the discretion and thus furnish protection against the use of racial considerations. The plaintiffs also objected to the fact that no provision for assignment, reassignment, or placement of teachers and other professional personnel on a non-racial basis was provided, thus further impeding the desegregation of the schools.

The plaintiffs alleged that, owing to the gerrymander of attendance areas, available facilities are not equally utilized, and that the pattern of over-crowding in certain Negro schools and under-utilization of certain white schools was being continued. It was claimed that the plan

should require the construction of new schools and additions to old without regard to race and the revision of existing construction plans which were prepared for a segregated school system.[43] The plan was also attacked because it did not require the exercise of any authority to transfer other groups or classes or pupils on either temporary, emergency, or permanent basis without regard to race. This issue stemmed from the partial destruction by fire of the all-Negro East End Elementary School on April 24, 1963. Plaintiffs complained that the board insisted upon operating the partially destroyed school on double sessions and refused to transfer Negro pupils to near-by white schools which allegedly had available space.

Plaintiffs further complained that the plan made no provision whereby Negro pupils who live in an all-Negro attendance area can obtain a desegregated education. Plaintiffs alleged that white pupils living within such areas have consistently been allowed to attend all-white or predominantly white schools in other areas, but that Negro pupils residing in the same areas were required to remain in the all-Negro schools. On this point it should be noted that the minority transfer provision contained in the board's regulations of May 14, 1962, has been eliminated from the proposed plan and that in the future the only way white pupils living in a Negro school attendance area may transfer to a predominantly white school is through the general transfer steps.[44] Plaintiffs further complained that the plan proposed by the board made no provision for eliminating racial segregation in summer school or other special educational programs operated by the school system.

Plaintiffs also contended that the proposed plan contained no provisions to insure that pupils and parents would be adequately notified of their rights under the plan nor that forms for transfer applications would be made freely and readily available to parents "or other persons within the community who desire parents to exercise their rights to desegregation under the plan." This objection dates back to the prior litigation during which the board received 133 appeals from Negro students seeking transfers to desegregated schools for the 1961-62 school year. All of these appeals were denied; 127 were denied on the ground that they were submitted on "unauthorized forms." The "unauthorized forms" were exact reproductions of the board's forms prepared by Negro leaders for parents who reportedly had not been able to secure the board's printed forms. Transfer request forms were given only to parents who called in person at the superintendent's office to obtain the forms for his own children and no others. Under the proposed plan the forms for transfer and assignment must not only be those which were adopted and approved by the board but which were "caused to be printed by" the school board, thus providing the board with the same technical objection to forms mimeographed and distributed by Negro leaders on a mass basis.

It is estimated that the new attendance area map adopted by the board will place approximately 250 Negro students now attending all-Negro schools within a zone which serves an all-white or predominantly white school. Experience shows that many of these Negro students will request transfer to a Negro school. It can also be expected that the few white pupils zoned into Negro schools will apply for and receive transfers to all-white or predominantly white schools in other zones.

Durham is unlike Caswell County in that it has a large and militant Negro following led by highly active leaders. Therefore, a great deal more pressure for desegregation can be expected in Durham. On the other hand, the small number of Negro students who took advantage of their right to attend a desegregated school in January 1963, following the district court's order, suggests that the "right" to attend a non-segregated school is valued more highly than its exercise. Thus in Durham, as in Caswell County and other areas throughout the State, there may be "voluntary segregation" once the right has been won by the militant Negro leaders. This theory has been demonstrated again in Caswell County, where the schools operate under the court's "free choice" order. Only 6 additional Negroes elected to attend desegregated schools for the 1963-64 school year.

CHAPEL HILL

Chapel Hill's geographical assignment policy, in effect for the first time in the 1961-62 school year, underwent modifications for the 1962-63 school year and has been abandoned completely for the 1963-64 school year. During the 1961-62 school year, first-graders were assigned to school on the basis of residential zone, regardless of race. The completion of the Frank Porter Graham Elementary School, a new elementary school ready for use in the fall of 1962, necessitated a change in the zoning. This school was built near the Negro high school and was intended to serve the Negro community.[45] As expected, the completion of the Graham School resulted in some re-segregation because many Negro students previously assigned on a geographical basis to the Glenwood Elementary School were automatically assigned to the new Graham School.

The individual school zones in effect during the 1961-62 school year were not drastically changed except for Glenwood, the west end of which became part of the Frank Porter Graham school zone. The remainder of the Graham school zone came from what had previously been part of Carrboro attendance area. In addition, the predominantly white Estes Hills and the Negro Northside school zones were both slightly enlarged. As noted in the attendance area map,[46] the all-white Dogwood Acres residential section (lower center on the map) logically could have been included in the Frank Porter Graham attendance area. The school board, however, placed this white residential section in the Glenwood zone to

forestall a potential avalanche of reassignment requests from Dogwood Acres. Nevertheless, approximately 70 white children were assigned by the new zoning to the Northside and Frank Porter Graham schools and, as expected, they requested and received transfers to the predominantly white Estes Hills, Glenwood or Carrboro schools.

Under the 1962-63 plan the assignment by race of junior and senior high school pupils continued. The 1962-63 plan provided that the board would honor requests for reassignment when made (1) because a majority of the students in the school to which the child was assigned were of another race; (2) because the school to which a child was assigned previously served children of another race; or (3) because the school to which a child was assigned is different from that to which members of his family had been assigned.[47]

The usual provisions for applications for transfer under the North Carolina Pupil Assignment Act continued in effect. The application of the new attendance areas were expanded to desegregate the first six grades during the 1962-63 school year instead of only the first grade, as in the prior school year.

Initial reaction to the new school plan was relatively mild. However, the white children applied for and were granted transfers to predominantly white schools from the Negro schools to which they had been assigned. The new assignment plan desegregated all elementary schools in theory but not in fact. The plan was, admittedly, a compromise. It was the board's feeling that progress would not be made at that time by forcing white children to attend predominantly Negro schools and vice versa. Furthermore actual desegregation was impeded by lack of support within the Negro community to build the Graham school in a location that would have avoided an all-Negro enrollment.[48]

Eight Negro children filed appeals when their transfer requests were denied by the school board. The bases for their reassignment requests ranged from living closer to another school to seeking a better education and opportunity for those unusually gifted. Two Negro families sought reassignment for their children from Graham to Glenwood, 5 from Northside to Carrboro, and 1 from Northside to Estes Hills. These appeals were denied by the board on September 4, 1962. Parents of these children served notice that they would carry their fight for reassignment to the Federal courts. The attorney for the Negro applicants attacked the board's new geographical assignment plan as having gerrymandered the Negroes out of the white schools and having created boundaries with no true relation to population distribution or to the location of schools.

After the board had denied the transfer requests, the superintendent undertook to have the students' applications for transfer approved. All requests were honored by the

beginning of the second semester of the school year. As a result, the Chapel Hill school system had a total of 42 Negros enrolled in previously white schools during the 1962-63 school year. Fourteen were assigned to Chapel Hill Junior High, 2 to Chapel Hill Senior High School, 8 to Carrboro, 9 to Glenwood, and 9 to Estes Hills elementary schools.

On January 8, 1963, the board abandoned geographic zoning as the method of school assignment. In its place it adopted a 5-point assignment regulation which made no mention of the individual school zones within the over-all Chapel Hill school district. The superintendent requested the new assignment regulation in order to give him greater administrative control over pupil assignments. Instead of school zones the pupil assignment criteria were: proximity of the pupil's residence to a school, individual preference of schools, and available class space. The superintendent secured from the principal of each school the anticipated number of students in each grade for the 1963-64 school year. Under the new policy, the number of pupils per classroom having been fixed, pupils will be assigned to a school by the superintendent, with the approval of the school board, on the basis of residential location of the school population, the available classroom space, and the maintenance of a reasonable equality of class size.

Chapel Hill will have a new junior high school open for operation in the fall of 1963. The old white junior high school will be utilized as an additional elementary school. This school, formerly the Franklin Street Junior High School, will be named the Franklin Street Elementary School. It is expected that this school will be the most racially balanced school in North Carolina. Its student body will be comprised of the excess students from Frank Porter Graham, Northside, and Glenwood elementary schools. As for the Negro Graham and Northside schools, once the number of pupils in excess of the desired classroom capacity has been determined, the principals will assign those pupils who live closest to the Franklin Street Elementary School to that school. The excess Glenwood pupils will be drawn from those residing in Victory Village, the University of North Carolina's housing for married students. About 65 Negro pupils and approximately 85 white pupils from Glenwood are expected to be enrolled in the new Franklin Street Elementary School. These students, unlike others, will not be permitted to transfer to another school. This reporter surmised from interviews that Victory Village was chosen as the source of the white students to be "locked in" the new Franklin Street school because its population changes rapidly and also because the parents, as nontaxpayers, did not deserve the same privilege of transfer for their children as taxpayers.

The new plan covers pupils already enrolled in the Chapel Hill schools and provides for assignments to be communicated on final report cards at the end of the school year. The plan provides that pupils attending the Negro Northside Elementary School will be promoted to the 7th grade at the all-Negro Frank Porter Graham School; pupils attending predominantly white Carrboro, Estes Hills, and Glenwood Elementary schools will be promoted to the 7th grade at the new, predominantly white Gye B. Phillips Junior High School; pupils attending a predominantly white junior high school will be promoted to the 10th grade at the predominantly white Chapel Hill High School; pupils attending the 7th grade at all-Negro Graham will be promoted to the 8th grade at Lincoln Junior-Senior (Negro) High School. The regulations concerning reassignment provide that the requests are to be filed in accordance with the State Pupil Assignment Act (within 10 days of the original notice) and that the board's decisions shall be based on the availability of classroom space and the maintenance within the school system of a reasonable equality of class size at the grade levels involved and shall not be inconsistent with the general assignment policy.

According to the superintendent, individual circumstances will play a greater role than before under the new assignment regulations. For example, a person living near one school but working near another may have his child assigned to the school nearest his job if space is available in order to make it easier for him to transport his child to school. On the other hand, the superintendent stated that reassignment requests for reasons of curriculum or teaching quality would not be honored because it is his desire to develop equality of educational standards throughout the school system and granting such requests would defeat that purpose. The new transfer policy is meant to give a limited type of open enrollment to Chapel Hill pupils.

The new policy can effectively be used to perpetuate school segregation until Chapel Hill has an abundance of classroom space in predominantly white schools or until white and Negro residential sections become indistinguishable--both unlikely possibilities.

The Chapel Hill School District is the only one in North Carolina to have employed white teachers for a Negro school. The new Frank Porter Graham School employed two white teachers--a special education teacher for the primary through third grades and a seventh grade teacher.

Another unofficial innovation in Chapel Hill is an evening study hall program at Chapel Hill High School on Wednesday and Thursday nights. Trained volunteer teachers meet with 6th through 12th grade students who need help in mathematics, English, French and social studies. The study hall, originally undertaken by a private group which met in a Negro church, was established for the purpose of

aiding Negro pupils in desegregated schools. The study hall was transferred to the Chapel Hill High School in January 1963 and made available to any student, without regard to race, who sought a quiet, supervised place to study. However, it continues to be used mainly by Negro pupils who need special help or who do not have any other place to study.

ASHEVILLE

In 1962-63 Asheville continued its geographical assignment plan begun in the 1961-62 school year and extended its application from the first three grades to the first six, following the geographical boundaries set out in its map for 1961-62.[49] As a result of the addition of grades one through six the formerly all-white Claxton Elementary School received some Negro pupils for the first time. Newton Elementary School was desegregated in 1961-62. Total Negro enrollment in the two schools for 1962-63 was 76 students, 2.56 percent of the total Negro pupils in the district.

An integral part of the geographical plan in Asheville is the minority transfer provision whereby a child is not required to attend a school in which he would be in a "minority group."[50]

Asheville's long-range desegregation plan called for the assignment of pupils in grades one through eight for the school year 1963-64 to the elementary school within their attendance areas or to the designated receiving junior high schools to which they would normally be promoted. The one exception provided that Negro pupils were to be given the option of applying for promotion to a white junior high school if their receiving junior high was Negro.

The board plans to desegregate through the 9th grade for the 1964-65 school year and through the 12th grade for the 1965-66 school year.

CHARLOTTE-MECKLENBURG

Charlotte's plan of desegregation was described in the Southern States Report.[51] As one part of the plan, geographic attendance areas were drawn for two elementary schools--Bethune and Sedgefield--and all students living within either area--both whites and Negroes--were assigned to the zone of residence. As a result, in the 1961-62 school year Bethune Elementary School, formerly a Negro school, was the only school in North Carolina which had an all-Negro faculty, a predominantly Negro student body (389) and 25 white students. Sedgefield followed a more normal pattern with a white faculty, 584 white students and 5 Negro students. Negro students who lived on an isolated Negro street within the Dilworth Elementary School zone

were given an option to attend either Dilworth, a formerly white school, or Isabella Wyche School, a Negro school. Thirty-three Negro pupils elected to attend Dilworth during the 1962-63 school year. The remaining assignments to Dilworth for 1962-63 were made on the individual pupil assignment basis. Because of the peculiar situation at the Bethune Elementary School, Charlotte has the largest number of Negroes attending desegregated schools, with 389 of its 435 Negro pupils in desegregated schools attending Bethune. Even including Bethune, however, only 2.34 percent of the total Negro enrollment of 18,596 are attending desegregated schools in the Charlotte-Mecklenburg school district.

Charlotte-Mecklenburg continued its "option" plan and expanded it for the 1963-64 school year to apply to six formerly all-white schools. At the end of the 1962-63 school year, 78 Negro pupils living within the white school zones for the Chantilly, Elizabeth, Wilmore, Villa Heights, and Seversville elementary schools, were given a pre-assignment option to attend the white school in the zone of residence or an all-Negro school. Fifteen pupils elected to attend the white school and the remaining 63 chose the Negro school. Of the white schools available, 1 chose Elizabeth, 4 Wilmore, 2 Villa Heights, and 8 Seversville.

HIGH POINT

In 1962-63 High Point continued its token desegregation policy under the Pupil Assignment Act. Twenty-one Negro pupils, about 0.68 percent of the 3,067 in the district, were enrolled during the school year in four desegregated schools--two elementary, one junior high, and one senior high school.

On March 13, 1963, parents of three Negro children filed suit in the Federal district court against the board of education seeking full desegregation of the city schools in assignment of the pupils, teachers, and other personnel. Seven children sought assignment to Ferndale Junior High School and one sought assignment to Tomlinson Junior High School. At present all attend Griffin Junior High, a Negro school. Plaintiffs alleged that "the defendant board has not employed the North Carolina Pupil Placement Act as a means of abolishing state imposed distinctions, nor has it offered to plaintiffs and other Negro children, by means of the Pupil Assignment Law, a genuine method for securing attendance at non-segregated public schools."52 Plaintiffs prayed for an order requiring the school board to reorganize the city schools into a unitary non-racial system.

At a special session on May 22, 1963, while the desegregation suit was pending, the High Point board unanimously adopted a new plan, to be put into effect for the 1963-64 school year, based on geographical assignment. This plan will give the student a choice of attending either the

elementary school in the zone of his residence, the school which he attended in 1962-63, or the school attended by his brothers or sisters, if that school is outside of his residential zone. Thus, if the school of the zone of residence is not the school attended by the student or his brothers or sisters in 1962-63 (i.e. a Negro school), the student has the choice of attending the school in the zone of his residence, or the school which he or his brothers or sisters attended. If the school of the zone of residence is the school attended by the student or members of his family (i.e., a Negro school), he has no choice. As the boundary lines were being drawn[53], about 53 Negro students lived in the attendance area of a predominantly white elementary school and about 100 white children lived in Negro elementary school zones.

With respect to junior high schools, the plan stated that students completing the course of study in an elementary school would be assigned to the junior high designated by the board as a receiving school for that elementary school. Other students, who were eligible for assignment to a junior high school, were to be similarly assigned by residence in an elementary school zone.

As to high school assignments, the plan stated that students graduating from a junior high school were to be assigned to the senior high school designated to serve graduates of that junior high school. With respect to other students eligible for assignment to a senior high school, the board shall first determine the junior high school to which such student would have been assigned by reason of his residence in an elementary school zone and assign him accordingly.

This feeder system assigns pupils attending formerly all-white schools into a formerly white receiving school, and those attending the Negro schools into Negro receiving schools, as has been done in the past. This results in some "hop-scotching" of Negro pupils over white school zones, and vice-versa.[54] Thus, white pupils from Montlieu Avenue, Kirkman Park, and Brentwood elementary schools travel twice the distance to attend Ferndale Junior High School that they would have to go to attend William Penn Junior-Senior High, a Negro school. White pupils from Clovesdale cross Fairview Street zone to attend a white junior high school but residents of Fairview attend William Penn at a greater distance.

GREENSBORO

On May 21, 1963, Greensboro adopted new regulations for assignment of pupils which moves it toward the Baltimore "free choice" type of assignment system. The new plan adopted by the board, with the sole Negro board member dissenting, continued reassignment by individual action under

the Pupil Assignment Act, but, under the resolution adopted, such reassignments would be made "without regard to race" beginning with the 1963-64 school year. As to the assignment of students to the first grade, the board adopted a resolution giving children entitled to be enrolled in the first grade the right to register at any school in the Greensboro school district. In order to put the plan into effect for the 1963-64 school year, the board reopened its registration for children who already had registered, allowing them to re-register at another school before June 4, 1963. The board furnished the principal of each school with a letter setting out the new policy. This letter was to be read to all pupils in each school and each pupil was given a copy of the letter for his parents. In addition, school personnel were instructed to show parents registering pupils for the first time a copy of the letter which describes the "free choice" plan. The board also dropped its requirements that applications for transfer from one school to another be sworn to, notarized, and delivered to the superintendent or the principal at the last school attended. Under the new rules and regulations, applications need only be sent to the superintendent by first class mail or delivered to the designated principal.

The Negro board member objected to the resolution because, he said, assignments under it would be made as they had been in the past and that requiring parents to apply for transfer for their children was "burdensome" on the parents. Instead, he advocated that a geographical assignment plan be adopted.

A Microcosm--Metamorphosis of Caswell County

THE ANATOMY OF A DESEGREGATION TRIAL

The militant tenacity required to achieve successful circumvention of the "unnegotiable obstacle courses"[55] which were erected by local school boards and the Federal courts under the North Carolina Pupil Assignment Act is graphically illustrated by the Caswell and Durham cases. The history of the Durham cases, up to their appeal to the Court of Appeals for the Fourth Circuit, was traced by the writer in his 1962 report to the Commission on Civil Rights.[56] A review of the events leading to the ultimate desegregation of the public schools in the Caswell County case follows. Together, these cases afford some insight into the evolution of the law of desegregation under the North Carolina Pupil Assignment Act and some of the administrative and judicial obstructions to the desegregation of North Carolina's public schools.

Caswell is a rural county, in the north-central part of the State. Its only city, and the county seat, is the unincorporated village of Yanceyville with a total population of approximately 1,000 persons.[57] Relatively few of the county's school-age children live within walking distance of their schools; virtually all of the students are transported to and from school by buses operated by the county school board. School buses have been, and continue to be, operated on a segregated basis. There are approximately 6,000 pupils in the county, of which approximately 53 percent are Negro and 47 percent are white.[58] The county maintains 15 schools. Traditionally, it has been a racially segregated school system. White students attended nine schools, five elementary and four consolidated elementary and high schools. Negroes attended six schools, five elementary and one consolidated elementary and high school.[59]

Desegregation efforts began on September 5, 1955, when 15 Negro parents of school-age children submitted a petition to the county school board requesting it to desegregate the county's public schools. The board's action on this petition consisted of taking it "under advisement" and then "affirming its desire to operate the Caswell County Schools in accordance with the law and for the benefit of all of the children of all the races."[60] The following year, on August 6, 1956, after pupils were assigned for the 1956-57 school year on the customary segregated basis, a second desegregation petition was filed with the board--this time on behalf of 15 members of the Caswell County Branch of the National Association for the Advancement of Colored People.

Following the board's refusal to take action on this request, a 5-member "committee" wrote to the State superintendent of public instruction requesting him to "order" the local board to desegregate its schools. The State superintendent replied that, "Under the public school law of North Carolina, the authority for assigning children to public schools is vested solely in local boards of education."[61]

On December 5, 1956, 23 Negro plaintiffs, on behalf of themselves and as parents and next friends of 43 minor plaintiffs, brought a class action against the Caswell County board of education, the county superintendent of schools, the State board of education, and the State superintendent of public instruction. The complaint referred to the petition of August 6, 1956, its denial by the board, and the subsequent futile attempt to get the State board of education and the State superintendent of schools to require the county board to desegregate its schools. Plaintiffs requested that a 3-judge court be convened to enjoin the application of articles of the State constitution and statutes alleged to require racial segregation in the State's public schools. They also prayed for an injunction requiring defendants to present a plan of desegregation of the Caswell County schools promptly.

Defendants' answers denied most material allegations of the complaint and contended that the plaintiffs had not exhausted their administrative remedies in accordance with the Pupil Assignment Act. The answer referred to a prior State court decision holding invalid those provisions of the State constitution which require segregation in the public schools and denied that the amendments to the constitution and the Pupil Assignment Act violate any law of the United States. The answers further denied that the State board of education and its superintendent have any control over the local assignment of pupils and that the local board had complete authority over such matters.

On or about May 1, 1957, plaintiffs, individually, wrote letters to the county school board protesting the reassignment of their children to segregated schools and requesting desegregation. Nevertheless, the board, on July 16, 1957, again assigned minor plaintiffs and all other pupils in the county to schools segregated by race. According to board minutes, this action was taken following conversations with "people of both races throughout the county" who thought such assignments "would be for the best interest of all the children of all the people."[62]

On October 8, 1957, plaintiffs appealed to the State superintendent of public instruction "to advise the Caswell County School Board to reassign said plaintiffs to schools in districts nearest their home on a non-segregated basis."[63] The State superintendent again denied this request on the ground that he had no such authority.[64]

On September 26, 1958, almost two years after filing the original complaint, the Federal district court granted both plaintiffs' motions for leave to file supplemental pleadings in which exhaustion of administrative remedies was alleged and a motion to dismiss filed by the State board of education and the State superintendent.[65]

With respect to the motion to dismiss the State board of education and its superintendent, the court took judicial notice of the public school laws by which "specific authority for the assignment and enrollment of pupils in all city and county administrative units throughout the state is vested solely in County and City Boards of Education."[66] The court concluded that the action respective to the State officials should be dismissed because they are neither indispensable nor necessary parties and, if plaintiffs prevailed, complete relief could be obtained against the county officials. The court also pointed out that the North Carolina Supreme Court, in Constantian v. Anson County,[67] acknowledged that it was bound by the School Segregation Cases: that ". . . any provision of the Constitution or statutes of North Carolina in conflict therewith must be deemed invalid", and that "color has been abolished as any basis for segregation in the public schools of this State."[68]

Defendants' answer to the plaintiffs' supplemental complaint alleged that September 3, 1957 had been set as the date for hearing plaintiffs' appeals to the school board on their requests for reassignment but that since neither plaintiffs nor anyone representing them appeared no hearing was held. The answer also alleged that defendants, on April 17, 1958, again assigned minor plaintiffs to segregated schools for the 1958-59 school year and that none of the plaintiffs requested a reassignment as required under the State Pupil Assignment Act.

Another year passed from the time the supplemental complaint was filed when, on October 19, 1959, plaintiffs moved for a stay of the proceedings to enable them to exhaust their administrative remedies in the manner prescribed in McKissick v. Durham City Board of Education[69] and Holt v. Raleigh City Board of Education,[70] which held that applicants for reassignment must appear personally at board hearings. These cases had not been decided at the time plaintiffs originally requested reassignment. Nine months later, on July 22, 1960, the court granted plaintiffs' motion to file a second supplemental complaint alleging that nine of the original minor plaintiffs had been assigned to all-Negro schools for the 1960-61 school year and that they had exhausted their administrative remedies as required by Holt and McKissick.[71]

At the beginning of the 1960-61 school year, 16 of the original 43 minor plaintiffs were still attending the county public schools. On June 9, 1960, timely applications for reassignment to white schools were filed on behalf of 9

of the 16 plaintiffs, namely: Samuel Maloy Mitchell, Charlie, Alexander and Sylveen Jeffers, Nathan, Lunsford, and Sheliah Brown, Fred and Charlie Saunders, Jr. Except for Fred and Charlie Saunders, Jr. each minor plaintiff requested transfer from the all-Negro Caswell County Training School to the all-white Bartlett Yancey School, each located in Yanceyville, about one and a half blocks apart. Charlie and Fred Saunders requested transfer from New Dotmond (Negro) Elementary School, in the county, to the "school nearest their home, based upon a non-segregated system without regard to race or color."[72]

In rejecting each application for transfer, the board considered the applicants' records, "along with school bus routings, location of student's home, and information in the school records, and on the application form."[73] Following timely appeals, the board held hearings on July 6, 1960, to review the applications of the Mitchell, Jeffers, and Brown children. The parents of the Mitchell, Brown, and Saunders children were personally present and represented by counsel. None of the Jeffers family was present, although they were represented by counsel. The only explanation given for the absence of the Jeffers was offered by Jasper Brown, who stated that he had visited John M. Jeffers, father of three minor plaintiffs, "for the purpose of his attending this meeting and that Mr. Jeffers had stated that he was too busy to attend the meeting."[74] Following these hearings, the board again rejected the transfers requested. Special hearings on the transfers requested by the Saunders children were held by the board on July 15, 1960. The father, Charlie H. Saunders, was present and represented by counsel. The applications for the Saunders children were also rejected following the hearings. As noted by the court of appeals:[75]

> In denying the nine transfer applications it received in the summer of 1960, the Board gave no explanation of its action. It acknowledged no set of principles governing its determinations. Board members testified that they considered all information available to them, and then each member voted as his conscience dictated. Those witnesses declined to suggest circumstances or conditions which would lead them to support a Negro's application for a transfer to a white school.

At the trial, however, the board members did relate facts which influenced their votes.[76]

Samuel Maloy Mitchell was to enter the 12th grade at Caswell County Training School (Negro), the only school in the county accredited by the Southern Association of Colleges and Secondary Schools. He planned to go on to college, and witnesses for the board thought it would be better for him to remain at the accredited school and

continue to receive French instruction rather than to transfer to the white high school, Bartlett Yancey, which was unaccredited and did not offer French.

The Browns live about five and one-half miles from Yanceyville at the end of a dead-end country road which is about two and one-half miles long. All of the children residing on the road attend Caswell County Training School, including the Browns. A county school bus for Negroes went within four-tenths of a mile of the Browns' home, whereas the nearest white school bus, serving Bartlett Yancey High School, stopped two and one-half miles from the Brown home.

The Saunders children lived four and two-tenths miles from the New Dotmond school from which they sought transfer, and two and four-tenths miles from Murphy School to which they asked to be transferred. Buses serving each school pass in front of their house. Board members thought the New Dotmond school was the better and larger school and also referred to the fact that other Saunders children attended New Dotmond and had not asked for transfers.

The fact of non-attendance at the hearing, except by counsel, on the part of the Jeffers, led the board to reject their appeals for lack of interest. In considering all of the applications, the board members also felt that the applicants' motivation was racial. As one board member stated, in reference to the Brown applications, ". . . the reason they gave for wanting to transfer was race and we cannot assign them on account of race."[77]

The case was tried by the district court without a jury on November 3, 1960, and the decision was handed down on August 4, 1961. The court began its discussion by noting that the litigation had been pending for almost five years and that many of the minor plaintiffs were no longer attending the public schools of Caswell County. The court placed the blame for the judicial lag on the plaintiffs, pointing out that the original complaint failed to allege that plaintiffs had even attempted to exhaust their administrative remedies under the Pupil Placement Act, and was almost identical in language to the complaint in Covington v. Edwards,[78] which was dismissed for failure to state a claim upon which relief could be granted. The court then pointed out that, although it had granted plaintiffs leave to file a supplemental complaint to cure this defect, they again failed to exhaust their administrative remedies, as required by the intervening Holt and McKissick cases, by not appearing personally at the board hearings on the applications for reassignment.

Of the remaining nine minor plaintiffs who had allegedly exhausted their administrative remedies for the 1960-61 school year, the court eliminated two from consideration because they were no longer enrolled in school. The fact that Alexander and Sylveen Jeffers failed to attend the

board hearings in person eliminated them. The court said "it cannot be seriously contended that they have exhausted their administrative remedies."[79] This left as plaintiffs only the three Brown children and the two Saunders children.

Turning to the merits of the case as to these five minor plaintiffs, the court again castigated the plaintiffs because they "have made adjudication of their rights most difficult by reason of the fact that the action has been maintained throughout as a class action, and the lack of pertinent data furnished in their applications."[80] The court referred to prior decisions which "held that injunctive relief in suits of this type will be granted only after the exhaustion of administrative remedies, and that rights must be asserted as individuals, not as a class or group."[81] The court stated further:[82]

> It is manifest that the plaintiffs have chosen to ignore the many decisions upholding the constitutionality of the North Carolina Pupil Assignment Law, hoping they will be successful, in either this or the appellate courts, in getting the law stricken from the statute books. Just as the defendant Board is bound by the decision of the Supreme Court in the Brown case, so are the plaintiffs bound by the court decisions prescribing procedures to be followed in cases of this type before applying to the courts for injunctive relief. A court of equity requires good faith on the part of all litigants, and plaintiffs in cases of this type are no exception.

Hence, the court concluded that:[83]

> This case is a typical example of the great delay that can result from the failure of plaintiffs to perform the simple duties imposed upon them by State law before applying to the courts for relief, and by failing to seek an adjudication of their rights as individuals.

The court stated that, as to the Saunders children:[84]

> . . . [It] would not hesitate to declare their right to attend the school of their choice without regard to their race if they had first made a good faith effort to gain admission to a particular school, and had sought a declaration of their constitutional rights rather than the constitutional rights of the class of persons they represent.

Regarding the Brown children, the court felt that "The record is less clear."[85] It held that since the two schools are approximately the same distance from their home, "distance as a factor is eliminated."[86] It also felt that it was "not feasible" for both the white and Negro buses to travel over the two and one-half mile road which dead-ends

at the Brown house and pointed out that no other children living on this road attend the white school.[87] Although the buses serving both schools go within a block and a half of each other, the court thought that to require the buses to carry children from both schools would create "serious administrative problems."[88] Finally, the court held a desire to be transferred to an integrated school was insufficient reason for transfer because "the Constitution does not require integration, it merely forbids discrimination."[89] The court deferred entry of judgment to permit the Brown and Saunders children time to file new applications setting forth the schools to which they wished to transfer and their individual reasons other than race to support their requests, in conformity with its opinion.

Following the district court's opinion, plaintiffs filed an amendment to their supplemental complaint, on July 26, 1960, seeking to enjoin the board "from further refusing on the basis of race or color to admit, enroll and educate the minor plaintiffs to and in the particular schools which they have sought and are entitled to attend." On August 18, 1961, the minor plaintiffs filed further applications for reassignment. The Brown children again sought reassignment from Caswell County Training School to Bartlett Yancey High School. Through an obvious error, the applications of the Saunders children requested transfer from the Archibald Murphy (white) school to the New Dotmond (Negro) school, in which they were in fact enrolled. The board met on August 21, 1961, and reviewed the new applications. Following this meeting, the board sent a special messenger requesting Mr. Saunders to come before the board for a "personal conference" on August 24, 1961. Mr. Saunders did not appear at the August 24th meeting, and the board noted that the applications of the Saunders children both stated they wished to be assigned to New Dotmond School, in which they were already enrolled, and that the board was informed "indirectly" that Mr. Saunders desired that his children remain in New Dotmond. The board concluded that Mr. Saunders no longer wished to send his children to Archibald Murphy School, and affirmed their assignment to New Dotmond. As to the Brown children, the board quoted at length from the court's decision and, since no new reasons for the transfer request had been given and the desire to attend a desegregated school remained the only reason, the application was again denied.

This action was reported to the court, together with an affidavit by Charlie H. Saunders which stated that he had inadvertently asked for transfer from the Archibald Murphy school to the New Dotmond school when it was the reverse he desired. In addition, he stated in his affidavit that he had not attended the board meeting as requested because he had received letters under the letterhead of the Ku Klux Klan, which he interpreted as threats that his children might be harmed if they should transfer to the white school. He stated that he was willing to send his children to the Archibald Murphy school if assured of their protection.

In a supplemental opinion and order of December 29, 1961, 90 the court dismissed as to the Brown children, again referring to the bus routes and the fact that no neighbors of the Browns were shown to be attending the white school. The court observed that "notwithstanding" its prior "admonition" the plaintiffs still sought "only a desegregation of the Caswell County School System rather than a protection of their own constitutional rights" and concluded that they had failed to prove by a preponderance of the evidence that they had been denied any constitutional right because of their race.[91] The court granted individual relief to the Saunders children because they had complied with the court's order in requesting their transfer to a specific school and had shown that had they been white they would have been assigned to the white school which was about half as far from their home as the Negro school. The court overlooked the obvious error in transposing the names of the two schools, and thought that under the circumstances disclosed in his affidavit, it was understandable that Mr. Saunders had failed to attend the board meeting as requested.

The Saunders children declined the fruits of their victory, and to this writing have not enrolled in any formerly all-white school in Caswell County. The Jeffers and Browns, however, continued their fight by appealing to the court of appeals.

THE BREAKTHROUGH--A NEW DIMENSION IN THE FOURTH CIRCUIT

The Court of Appeals for the Fourth Circuit heard the appeal en banc, reversed the district court's dismissal as to the Browns and Jeffers, and remanded to the district court with instructions to require the Caswell County board of education to desegregate its entire school system. For the first time in history this court of appeals granted relief in a desegregation suit on the basis of a spurious class action.[92]

The court noted, "The School Board takes shelter behind the North Carolina Pupil Enrollment Act."[93] It agreed with the district court that this act had been held to be constitutional upon its face and that 14th amendment rights "are individual and are to be individually asserted in the Federal Courts, but only after exhaustion of reasonable administrative remedies provided by the state."[94] The court also noted that it had required the exhaustion of administrative remedies even though the board had taken no steps to abandon discriminatory practices antedating the School Segregation Cases.[95] In spite of these principles, "firmly established in this circuit," the court stated that:[96]

> They presuppose a fair and lawful conduct of administrative procedures. They are premised upon an expectation that administrators will take appropriate

> steps to relieve victims of discrimination, when an unwanted assignment is shown administratively to have been discriminatory. Until there has been a failure of the administrative process, it should be assumed in a federal court that state officials will obey the law when their official action is properly invoked. When, however, administrators have displayed a firm purpose to circumvent the law, when they have consistently employed the administrative processes to frustrate enjoyment of legal rights, there is no longer room for indulgence of an assumption that the administrative proceedings provide an appropriate method by which recognition and enforcement of those rights may be obtained.

Significantly, the court did not limit its criticism to the discriminatory treatment of transfer requests, but also attacked original assignments made on a racial basis. Such assignments, according to the court, "are neither authorized nor contemplated by that permissive Act."[97]

The court specifically recognized that forced integration was not required by the School Segregation Cases, but held that "voluntary" and "its legality is dependent upon the volition of each of the pupils."[98] While administrative remedies, such as provided in the North Carolina Pupil Assignment Act, may have a place in a voluntary system where interracial transfers are normally to be had for the asking, "when the administrative processes, however, are used solely to prevent all freedom of choice in a system dependent for its legality upon the volition of its pupils, the remedy is both inadequate and discriminatory."[99] The court held that an administrative remedy, no matter how fair on its face, when used as a means of perpetuating discrimination, need not be exhausted or pursued as a condition to resort to the Federal courts.

Following the hearing on the remand of the case from the court of appeals, more than six years after the original complaint had been filed, Federal District Judge Edwin M. Stanley ordered the Caswell County board of education to notify every school child that starting with the second semester of the 1962-63 school year he or she had complete freedom in choosing a school.[100] At the same time, the judge ordered the transfer of the minor Negro plaintiffs in the Wheeler and Spaulding cases to predominantly white city schools in Durham.[101]

The two orders dated January 2, 1963, required the respective school boards to admit the plaintiffs in each case to the schools which they had requested. In the order to the Caswell County board, the court required the board to admit the plaintiffs to the schools of their choice provided only that the minor plaintiffs presented themselves for registration at the chosen school at the beginning of any school semester or school term. In addition, the court

ordered the board to refrain from refusing on the basis of race or color, to admit not only the minor plaintiffs, but "any other Negro child" entitled to attend the county's schools.[102] The board was specifically ordered to "freely and readily grant all requests by parents or guardians for the transfer or initial assignments of pupils whose school is attended solely by pupils of another race." The board was ordered to inform parents or guardians of the pupil's right to "freely choose to attend a racially non-segregated school."[103] Notice was required to be given to the parents of every child currently enrolled and to parents of children who subsequently enroll in the school system for the first time, whether at the beginning of the school year, by change of residence, or otherwise. These requirements were to remain in effect until the board, with the approval of the court, adopts some other plan for the complete elimination of racial discrimination in the county schools.

During the hearing on remand, the attorney for the Caswell County board of education objected to the order giving "freedom of choice" to the children on the ground that it would "divest the Caswell County Board of Education of its authority to administer the school system."[104] This objection was overruled as invalid, since the board was free to submit an alternative plan, so long as it was nondiscriminatory.

COMPLIANCE--ACTION AND REACTION

The county board, on January 3, 1963, directed the superintendent to send notices of freedom of choice to parents of all school children through school principals. The notice read:[105]

> Every child in the Caswell County School System has the right to attend a school freely selected without regard to race or color. Parents' requests for initial assignment or transfer of pupils in order to attend a school with members of the other race will be freely granted. If your child is entering school for the first time, you may present the child for enrollment at any school serving the child's grade level without regard to whether the school you choose is or was formerly attended solely by Negro pupils or solely by white pupils. If your child is now assigned to an all-Negro or an all-white school, and you desire that the child be transferred to another school in order to obtain a desegregated education, you should indicate this desire on this notice in the space provided, and return it to your child's present teacher or principal.

A number of questions were raised at a meeting of local and State school officials on January 19, 1963. Problems such as transportation and over-crowding were considered,

in addition to possible discrepancies in scholastic progress in the various schools, and the number of teachers assigned to particular schools.

The desegregation question has been front-page news in Caswell County since the decision by the court of appeals. Some idea of public reaction can be had from the local newspapers. According to the Messenger, the Yanceyville weekly, "the problems involved in the court order could create a serious disruption in the orderly processes of education in the county if parents and pupils should decide to change schools under the 'freedom of choice' court order."[106] The Messenger also reported the results of its own "sampling" of public opinion:[107]

> /Some/ people queried by the Messenger have expressed the opinion that people of the County are so genuinely proud of the progress being made by the schools they will not ask for transfers and disrupt the orderly operation of the schools as planned and made effective by the School Board and its administrative officials.
>
> Others queried are more pessimistic, stating that there may be some who have little regard for the successful operation of the schools and will ask for transfers 'just to show they can do it'.
>
> All generally agree that transfers to any large degree would break down the school system and destroy all the progress made during the past decade or more.
>
> It is generally conceded that no white pupils will ask for transfers to Negro schools, and there are a good many who believe that the majority of Negroes will not risk tearing up their own schools by asking for transfers to white schools.

Referring to the board's right to come up with an alternate plan for desegregation, a lead article in the Messenger stated, "It was generally believed that no plan which could be worked out for the desegregation of the schools would be acceptable to the majority of the citizens of the county. The continued support of these citizens is necessary if the schools are going to continue to operate."[108]

In a front-page article in the Messenger, the superintendent of the Caswell County public schools referred to the district court's mandate as follows:[109]

> How would you react if you were 'restrained and enjoined from refusing or failing to readily grant' what you are convinced would promote chaos and anarchy?

The situation described above surrounds the Board of Education just now but the Board will continue to provide educational opportunity for all the children of all the people as best it can.

It is impossible to understand an order which restrains the Board but allows everybody else, say 6000 students, to act without restraint.

On the same page, the editor of the paper in another signed column referred to the "pointed question" raised in the superintendent's article and commented as follows:110

Mr. Whitley [the superintendent] and the Board are not the only ones who find it difficult to understand the decisions which apparently attach more importance to legalistic theory than to practical considerations in dealing with the welfare of thousands of students. It is also hard to understand how the alleged rights of a few can outweigh the rights of the majority.

According to the editor:111

To have what the people have worked for and sacrificed for over the years placed in jeopardy by a drastic court ruling which takes away the basic authority of a Board in operating the schools is beyond the comprehension of those who believe in a representative form of government.

The editor further maintained that the success of the board's efforts now rests on responsible parents who believe that the education of their children is more important than "free choice" when the exercise of such choice would mean chaos and the destruction of a school system which has taken a generation to build.112

A letter, on Ku Klux Klan letter-head, delivered to the mail box of Charles H. Saunders was a more direct threat to "free choice":113

The Ku Klux Klan Rides Again
Charlie Henry Saunders
This is to advise you to keep your child attending the Dotmond School and no one will get hurt. Don't be a fool and try to force it to go to a school where it does not want to go and where it is not wanted.

This organization is not going to try to keep you out of the white school on January 22, but there will be hell to pay from then on if you do.

The Ku Klux Klan
By The Grand Dragon

Charlie Saunders and most other Negro parents decided not to exercise their "freedom" of choosing to send their children to the white schools. With the opening of Caswell County schools for the spring semester on January 22, 1963, only 16 Negro children from 4 Negro families had enrolled at formerly all-white schools.[114] The atmosphere at enrollment was tense. The three schools which were desegregated were completely quiet when they opened; no crowds congregated and no incidents were reported. There were no incidents reported at either Cobb or Pelham elementary schools, but at Bartlett Yancey High School a white boy struck one of the Negro boys in what was described as an unprovoked attack and the white boy was expelled from school by the principal.

What started out as a relatively smooth transition was spoiled by a series of incidents involving one of the Negro parents, Jasper Brown, which culminated in his alleged shooting of two white men.

Conflicting accounts of the shooting were given.[115] Following a hearing on March 6, 1963, in which the two injured white men related their version of the shooting, the magistrate found probable cause and bound the defendant over to the March 25 term of Superior Court. Brown was released on $1,000 bond on two counts of assault with a deadly weapon with intent to kill. A continuance was obtained by counsel and the trial will take place at the next term of court, which is in November 1963, barring a special term in the interim.

On the opening day of the second term in January 1963, after the school authorities had learned of the shooting, they instructed the schools to send the Negro children home early to prevent the tension building up in Yanceyville from spreading to the schools. According to the superintendent, he told the Negro children they were free to return the following day but he advised them to remain at home for a day or two. However, all the Negro pupils returned to their classes at Bartlett Yancey and Pelham the next morning. Negro pupils reported at Cobb Elementary School the following day. The principal of Bartlett Yancey as quoted as saying that shortly after the Negro children had been sent home the first day he encountered five cars of white adults parked in the school driveway. Someone asked where he had "hidden the niggers" and he told them that they had gone home and they left.[116]

In March 1963, plaintiffs in the Jeffers case filed a "Motion for Further Relief" with the Federal district court requesting school bus transportation for the Negro children to the white schools and for an order requiring the board and the superintendent to "take all necessary and reasonable measures to stop the harassment of Negro children attending white schools." In its opinion reversing and remanding the Jeffers case, the court of appeals held that

the Negro children were entitled to attend the school of their choice, "unless administrative considerations dictated some other alternative."117 No such administrative problem was suggested and, according to the court, "The remoteness from the Brown residence of the route of the Bartlett Yancey bus is not such a reason, for concededly, the Brown children could ride the training school bus and walk the short distance from that school to Bartlett Yancey."118 Taking their cue from this statement, the board made no new provision for transporting the Negro children to the white schools. As a result, the Negro pupils attending Bartlett Yancey rode the Negro bus to the Caswell County Training School, and then walked a block and a half back to Bartlett Yancey.

The plaintiffs alleged that on January 21, the day before the second semester began, the Negro parents requested the superintendent to provide them with bus transportation. It was alleged that, "This request was refused because, according to the Superintendent, white bus drivers had threatened a sit-down strike if required to transport Negro children, and because it would not be possible to re-route buses to accommodate the Negro children." On January 23 the superintendent was allegedly asked to re-route the Negro school bus past the white Bartlett Yancey School. Much of the harassment of the Negro students was said to take place during the course of the walk between the two schools. According to the motion, the superintendent suggested that the Negro principal of the Caswell County Training School be asked to approve this request. The principal did so but the board rejected the request at its February meeting. It was further alleged that the Negro parents attended a board meeting on March 4 and requested that bus transportation be provided Negro pupils attending Bartlett Yancey, Cobb Memorial, and Pelham schools, pointing out the distance parents had to travel to take their children to school and the inconvenience of providing this transportation. The requests were again denied. The board chairman allegedly stated that the Supreme Court put the kids in school, let the Supreme Court provide them transportation. When asked who ran the schools in Caswell County, the chairman allegedly said that the board used to run them, but the courts are running them now.

The motion further alleged that the board and superintendent had failed and refused to take prompt disciplinary action against white students and others who harassed the Negro children attending the Bartlett Yancey school and to insist that faculty and administrators of Bartlett Yancey take the action necessary to prevent such harassment. Specific instances of harassment alleged in plaintiffs' motion included an incident on February 12 when a group of white boys threw a bottle from a speeding car at the Negro children, which splattered among them and showered them with glass. This incident was said to have been reported to the principal, along with the type and license of the

car, but no action was taken. On February 13, Negro students allegedly reported to the principal that rocks and gravel were thrown at them from a speeding car, but again no action was taken. The same group of white boys allegedly stopped their car in front of the Negro students on February 14th and several white boys jumped out and blocked the road. One of the Brown children, who started back to school, claimed that the car attempted to run him down. Other white students allegedly threatened to kill him if he reported the incident. Nevertheless, Brown reported the incident to the principal who reported it to law enforcement officers. Subsequently, highway patrol cars were assigned to protect the students, but no action was taken against the offenders.

Another incident was said to have taken place on February 18th, when the three Graves children were accosted on their way to school by a group of white boys who blocked the way and pushed one Negro pupil against a pole and kicked him. A police escort was provided between the schools after this episode was reported, but, according to the allegation, no action was taken against the white students. Later in February a car full of white students allegedly attempted to run down the Negro children while they were crossing the highway on their way to lunch. The motion stated that the principal saw this incident, obtained the license number of the car, but again took no disciplinary action. On another occasion in February one of the Negro students was allegedly hit on the head by a rock thrown from a white school bus, but the principal took no action when it was reported to him. Another incident was said to have taken place on March 7th; one of the Negro girls reportedly was pushed into a school restroom by four white girls and threatened.

In addition to the unabated harassments by white students, the motion alleged that the Negro pupils had been unfairly treated by the white faculty. According to the motion, "harsh and unreasonable disciplinary measures" had been taken against some of the Negro children for apparently "minor or nonexistent violations of school rules." Two of the Negro children were suspended for five days for alleged "plagiarism" in copying a report instead of writing a theme. One of the Brown boys was suspended for allegedly making an obscene hand gesture at two white girls. This charge was brought by a girl who was said to have been a ring leader in student efforts to force the Negroes out of the Bartlett Yancey High School. The suspension was ordered despite Brown's denial which was supported by two other Negro children who were with him. The incident was supposed to have occurred while the Negro students were locked in an empty classroom during a period between classes. This procedure was said to have been adopted to give the Negro children relief from constant harassment. According to the allegations in the motion, white students habitually gathered around the door of the locked classroom and yelled at the Negro students, calling them names and making insulting remarks.

Although token desegregation of the Caswell County schools is an accomplished fact, white citizens have tried to contain it by economic pressure on Negro citizens and by threatening to close the public schools. The North Carolina Defenders of States' Rights, a white segregationist organization, has been extremely active in this respect.

On February 9, 1963, the Caswell County board of commissioners and the public welfare board met in a joint session to discuss the welfare program in the county with State officials.[119] This meeting was attended by Eugene Brown, acting State Commissioner of Public Welfare. Included in the discussion were the complaints submitted by the Defenders claiming that unqualified Negroes received welfare funds.

The Defenders opened a second front by proposing the closing of the county's public schools under the Pearsall Plan and opening segregated private schools. On Sunday afternoon, February 3, 1963, a crowd of about 400 Caswell County citizens attended a meeting in the court house sponsored by North Carolina Defenders of States' Rights at which Bernard Dixon, Co-chairman of the County Chapter presided.[120] Speakers denounced desegregation of schools and Lon F. Backman of Richmond, Virginia, the Public Relations Director for the Virginia Education Fund, Inc., the organization which sponsored a number of private schools in Virginia in an effort to avoid desegregation of public schools there, reported on the operations of the private schools in Front Royal and Prince Edward County, Virginia.

The first speaker was Allison James, a Winston-Salem pharmacist and an official in the Defenders. Mr. James' remarks were interrupted when a Negro was discovered in the audience and was asked to leave. James described the times as the second "reconstruction", condemned the Supreme Court generally and its decision in the School Segregation Cases specifically. He cited Alabama and Mississippi, as examples to be emulated in defying forced desegregation. He accused Governor Sanford of siding with "carpetbaggers" and "brainwashers" against the people. He attacked the Kennedys and the daily press for distorting news on race relations, and cited Thomas Jefferson as authority for the proposition that "the highest law of the land is self-preservation" which is "why we are in this court room". Mr. Backman stated in his talk that "choice of association . . . a basic right under the constitution" was being denied to white people by the Supreme Court and that the Federal Government is "usurping the power of the states."

Mr. Backman asserted that Virginia avoided the problem created by the Court's action by repealing compulsory school attendance laws and financing private schools. "If we can do it, you can do it," Backman is reported to have said, "but you will have to dig deep in your pocketbooks, make some sacrifices and work hard, be prepared to be a vilified community. The press will be against you and you

will be called arch segregationists, renegades, and diehards who are opposed to education." Mr. Backman told the crowd that the people of Front Royal, Virginia, erected a modern school building by public subscription, donations of labor and materials, that the school is fully accredited, and that 80 percent of its graduates go to college. He denied the critics' claims that the students were ill-prepared for college by saying that the records show that its graduates make a "B" average or better in college.[121] He also described the efforts of the people in Prince Edward County where the white people erected a building and established a private school "which was acclaimed one of the finest institutions of learning in Virginia." According to Mr. Backman, it had an excellent staff of teachers and administrators and was financed by the State's $250 tuition grant, supplemented by a fee of $15 per year charge for each child enrolled.[122] He also stated that the white people offered to assist Negroes in setting up a private Negro school, after the public schools had been closed, but the Negroes declined any assistance. Mr. Backman stated that the Negroes had far superior facilities to the white children prior to the closing of the schools and he condemned the Nation's press for not reporting this "fact".[123] Mr. Backman is reported to have said that "going into independent education is not an easy job and you will have the press and liberals against you, but these are parents who are standing up and fighting for what they believe." He concluded "we have met the invader foot to foot."

Mr. Dickson then resumed the floor and moved the adoption of a resolution asking Dr. I. Beverly Lake, unsuccessful segregationist candidate for governor in the last Democratic primary election, to run for governor in the next election. This motion was carried unanimously. The Pearsall Plan was mentioned and the audience was asked to get copies of the act and to study it.

The next meeting on closing public schools and plans for private schools was set for Tuesday, February 12 at 7:30 p.m. An estimated 220 white citizens attended the second meeting, also held in the court house, to consider further plans in setting up private schools for white children who did not wish to attend the integrated schools.[124] A committee was named to study the Pearsall Plan and to initiate steps toward establishing private schools sometime in the future.

At the second meeting, a letter from I. Beverly Lake was read in which he expressed his thanks for the resolution supporting him passed at the prior meeting and stated that if he could be assured of at least $250,000 for the gubernatorial campaign, he would become a candidate. Otherwise, he said he thought that there would be no point in running. He suggested that if the 400 people who had attended the meeting on February 3rd would contribute $10 each, this would help him in financing his campaign. Interested

people were requested to contribute to the Lake campaign fund and it was said that "we need a governor who would be with us if we are to be successful in our efforts in setting up private schools through the Pearsall Plan." It was stated at the meeting that the present governor is a "New Frontiersman" and would not support their efforts. It was felt that if Lake were elected "he will help us to provide schools so that we won't have to send our children to school with colored children."125

During the discussion it was pointed out that at least one white parent had asked that his children be transferred from the integrated school to a segregated school and this request had been denied by the county board of education. A question was raised whether or not mid-semester transfers could be allowed without also granting the right to Negro children who, under the court's order, can transfer to white schools only at the beginning of the semester. This question was not answered but the group voted to ask the board of education to grant such requests for transfers by white children or to find out why this could not be done. It was pointed out during the meeting that under the Pearsall Plan, 15 percent of the voters in the school district could petition for an election to decide whether to close the schools and set up private schools. Approximately half of the audience indicated by a show of hands that they thought that the county would eventually have to resort to private schools in order to prevent "wholesale integration." A general discussion followed on the problems of integration and means of solving them and a plea was made for the support of Lake, should he become a candidate for governor.126

PUBLIC OPINION--THE PULSE OF CASWELL COUNTY

Caswell County is the first county in North Carolina to have court-decreed desegregation of all of its public schools. The 1962-63 Negro student population outnumbered the white student population by 3426 to 2646. Negroes comprise almost 50 percent of the total population and are interspersed among the white residents throughout the county and in Yanceyville. There is, therefore, no possibility of a geographical assignment plan, such as in Asheville, which would keep integration of schools to token proportions.

In order to conduct a public opinion poll in Caswell County, this reporter obtained the aid of Ernest Q. Campbell, associate professor of sociology and research associate in The Institute for Research in Social Science at the University of North Carolina. Under Professor Campbell's supervision, a questionnaire was prepared, interviewers selected and instructed, and the results of the survey analyzed. Graduate students in the Sociology Department and the Law School of the University of North Carolina at Chapel Hill, and the North Carolina College of Law at Durham served as interviewers.

To keep the project within manageable limits, the town of Yanceyville was selected as the site for sampling. The sample was based on an interview with an adult male or female from every third household, with the sex of respondents alternated when possible. Negro interviewers were used for Negro respondents, and white interviewers for white respondents. Because of the small size of the town, and the controversial nature of the subject, it was decided to make the poll a one-shot, no-return project. For this reason, interviewers necessarily were given some leeway to substitute households when, for example, they encountered refusals or no answer at the house selected. The poll was taken on Sunday, March 17, 1963, during a period in which efforts were being made by Negro parents to secure bus transportation and protection from alleged harassment of their children at the Bartlett Yancey High School in Yanceyville. The results of the poll are summarized in Appendix B, which shows the distribution of responses to selected questions by percentage.

Edward H. Wilson, Caswell County's representative in the State's General Assembly and Chairman of the House Education Committee, made a speech in the statehouse on February 20, 1963, in which he appealed for help in solving the "critical situation" in Caswell County schools resulting from court ordered integration.[127] According to Mr. Wilson, the purpose of his speech was to "set the record straight and to appeal for help to correct this decision which gave no regard to the feelings of 90% of the citizens of Caswell County."[128] He deplored "recent events by outsiders who have attempted to destroy our schools," and said that "we in Caswell County do not like this decision based on outside pressure by people who have never been there."[129] As already noted, Mr. Wilson's opinion on the court's desegregation decision is shared by the editor of the Caswell County Messenger, school board members and the superintendent, and is more representative of the white persons' view than the Negroes'.

In view of the strong segregationist tradition of Caswell County, it is not surprising to find that 80 percent of the white respondents disapproved of the court's desegregation decree. The surprising disclosure of the poll was that as many as 12 percent of the Negro respondents stated that they disapproved of the decision, and 31 percent were not sure whether they approved or disapproved.

Mr. Wilson, in his speech, stated that the people of Caswell County, both white and Negro, "will have no violence, but will exert every legal and honorable weapon to remove this severe threat to the destruction of a fine school program."[130] Other leaders in the county have taken strong stands against violence, mainly with a view toward avoiding another Little Rock or Oxford. The superintendent of Caswell County schools called for public restraint by noting that "there are inevitably unfavorable reactions to

these situations, but it does not help to take vengeance, use spite, hate or suspicion, or to hurt."[131] The poll indicates that not only did the great majority of the white respondents (69 percent) agree that violence should be avoided, but, remarkably, 59 percent were in favor of obeying the mandate without any resistance. Only 8 percent said that they were in favor of resisting to the point of using force. This fact, coupled with the relatively peaceful initial integration of three of the county's schools, suggests that violence, on a broad scale at least, is not to be expected.

The most likely form of peaceful resistance to be anticipated would be an attempt to close the public schools accompanied by a substitution of some form of private school system under the Pearsall Plan. Forty percent of the white respondents said they would be in favor of setting up private schools for white students in place of public schools, with 17 percent undecided. Thirty-five percent said that they thought a private school system would work, 19 percent were undecided, and 46 percent doubted that it would work. In comparison to the 40 percent in favor of private schools over public schools, only 32 percent of the white respondents stated that they would rather close the schools than have them integrated. Only 17 percent stated that if an election were held immediately, they would vote to close the schools.

Actual knowledge of the number of Negro children who have taken advantage of the opportunity to attent formerly white schools in the county and in Yanceyville was surprisingly limited. Seventy percent of the white respondents and 74 percent of the Negro respondents did not know how many Negro pupils had enrolled in white schools in the county and 62 percent of the white and 74 percent of the Negro respondents did not know how many Negroes were enrolled in the Bartlett Yancey school. Sixty percent of the white respondents and 71 percent of the Negro respondents were not even close (within plus or minus one) in guessing how many Negroes had enrolled in formerly white schools in the county; 36 percent of the white and 53 percent of the Negro respondents were not close to the number of Negroes attending school with whites in Yanceyville. All of the white respondents and all but 6 percent of the Negro respondents felt that less than half of the white people in Caswell County were <u>willing</u> to have Negro and white students go to school together. In fact, 91 percent of the white and Negro respondents thought that few or none of the white people were willing to permit integration.

The picture changed as the pupil race-ratios were hypothetically altered. When the proportion of Negroes to white pupils reached one-third, 43 percent of the white respondents favored closing the schools; when the Negro to white ratio was about equal, those in favor of closing the schools increased to 61 percent; and when the Negroes

outnumbered the white pupils, 66 percent favored closing the schools. Significantly, 34 percent preferred to keep the public schools open in any event.

As already noted, there is no possible way for the Caswell County school board to devise a geographical pupil assignment plan which would not result in substantial integration of its schools. Assuming the board follows its present policy and continues under a "voluntary" or "free choice" plan as required by the court's mandate, the degree of future integration depends upon the intentions of Negro parents. The poll showed that 84 percent of the white respondents felt that only a few or none of the Negroes in Caswell County really wanted to have white and Negro students go to the same school. While this result might have been expected, it was surprising that 48 percent of the Negro respondents agreed. Only 23 percent of the Negro respondents thought that most of the Negroes wanted integration in the schools, as compared to 2 percent for white respondents. None of the Negro respondents said that they intended to send their children to a formerly white school, and 79 percent stated that they intended to continue sending their children to the Negro school, leaving only 21 percent undecided. It seems doubtful, therefore, that "freedom of choice" will result in more than token integration in the near future.

The poll showed that the reasons for the Negroes' preference for their own segregated schools were many and varied. On the one hand, only 18 percent thought that the white schools were better than the Negro schools. The Negro Caswell County Training School in Yanceyville is the only school in the county accredited by the Southern Association of Colleges and Secondary Schools. It has many facilities which Bartlett Yancey High School does not have, such as a school band, certain foreign language courses, and electric typewriters. Moreover, only two percent of the Negro respondents felt that white teachers did a better job than Negro teachers. In fact, the Negro teachers are generally higher paid, more experienced, and have more degrees than the white teachers in the county. Forty-one percent of the Negro respondents felt that the Negro schools provided a better education than white or integrated schools, with 28 percent stating there was no difference. Again, 55 percent of the Negro respondents thought the Negro schools made the students work and study harder, and 27 percent saw no difference. No Negro indicated a preference for a white teacher over a Negro. Thirty-three percent stated they would prefer a Negro teacher if they had a child going to an integrated school. From all of this it cannot be said that the Negroes in Caswell County are crying for the opportunity to have their child attend an integrated school and have a white teacher.

When asked why more Negro children were not enrolled in formerly white schools now that they have the opportunity, 56 percent of the Negro respondents thought Negroes were

afraid of either physical or economic reprisals. Twenty-eight percent of the white respondents agreed with this. Forty-one percent of the white respondents merely stated that the Negroes "preferred" to attend their own schools. Eleven percent of the white, and 10 percent of the Negro respondents thought the superiority of the Negro school was the reason for the preference. Few of the respondents felt that relations between the races had improved, and 61 percent of the white and 40 percent of the Negro respondents felt that they had deteriorated over the last few years. The Negro schools have been improved in recent years and many Negroes seemed to fear that undue pressure for change has worsened race relations and may continue to undermine racial progress.

Events subsequent to analysis of the poll have borne out its short-run predictions. Notices of "freedom of choice" were sent to parents on April 1, 1963 pursuant to the court's order. By the 10-day deadline, only six Negro children requested transfer to desegregated Bartlett Yancey High School for the 1963-64 school year. Significant, also, is the fact that these six pupils live outside Yanceyville. No Negro pupil living in Yanceyville--where the poll was taken--requested transfer to a formerly all-white school.

Prognosis--Token Desegregation and "Voluntary" Segregation

Although statistically North Carolina has made little progress in desegregating its public schools, the new approach taken by the courts, particularly the Court of Appeals for the Fourth Circuit in its Caswell[132] and Durham[133] decisions, together with an awakening of Negroes to their civil rights, point to a growing decline in school segregation.

As already noted, Yancey County was ordered to desegregate its white public schools in order to permit its Negro students to remain in the county rather than travel the 80-mile round-trip daily to go to school in Asheville. Recently, a Federal district court issued a similar order[134] against the Transylvania County school board requiring it to permit its Negro pupils to attend public schools within the county if they so desire, instead of traveling 21 miles to Hendersonville. Nevertheless, there remain several counties in western North Carolina where the school district maintains no Negro schools at one or more levels and requires its Negro pupils to attend school out of the district. It seems evident from the court decisions that it is only a matter of time before these counties are required to change their policy.

The Caswell and Durham decisions held that if a school board's policy under the Pupil Assignment Act is one of segregation, a plaintiff need not exhaust his administrative remedies in order to bring a "spurious class suit" to enjoin further discrimination. The quantum of proof necessary to establish the unconstitutional administration of the Act is disclosed in the record in the Caswell and Durham cases, i.e., a history of little or no desegregation and continuation of a dual school system by the "invariable denial of inter-racial transfer requests" and administrative remedies which are "unnegotiable obstacle courses."[135] Furthermore, the court indicated the burden is not on the child to make application for transfer. It held that the broad judicial relief therein granted "must be granted to school children who have been initially assigned on a racial basis."[136]

It now seems clear that token desegregation will no longer be a defense to a desegregation suit. In Watson v. City of Memphis, the Supreme Court stated[137] that:

> Given the extended time which has elapsed, it is far from clear that the mandate of the second Brown decision requiring that desegregation proceed "with all deliberate speed" would today be fully satisfied with types of plans or programs for desegregation of public educational facilities which eight years ago

might have been deemed sufficient. Brown never contemplated that the concept of "deliberate speed" would countenance indefinite delay in elimination of racial barriers in schools. . . ."

The legal demise of segregation and tokenism does not mean that North Carolina's public schools will be fully integrated at any time in the near future. The court of appeals has retained its historical distinction between enforced segregation and enforced integration. Thus, under its present interpretation, the School Segregation Cases still do not require integration in the public schools, but only prohibit segregation. This dichotomy may be expected to give rise to increased use of "voluntary" segregation in the public schools through the device of "option" or "free choice" plans. The experience of the "free choice" plan in operation in Caswell County, and the "option" plan in Charlotte-Mecklenburg, plus the limited response of Negro plaintiffs in taking advantage of their right to attend desegregated schools under the Durham court order, suggest that where the Negro pupil has the "right" to attend either a desegregated or a segregated school, he will frequently choose to remain in the Negro school.

According to the court in Caswell, in order for a school board to maintain a defense of "voluntary" segregation in its schools, it must show that the Negro children have in fact been given a "freedom of choice" which must be made known to them by some "announcement that such right exists."[138] That "voluntary segregation" may replace "tokenism" as the new mode of limiting desegregation of North Carolina's public schools is already indicated by its continued presence in Caswell County and the adoption of a form of the "free choice" in Chapel Hill, Greensboro, and Charlotte-Mecklenburg in addition to the recent court order in the Transylvania decision.[139]

As desegregation barriers diminish, the spectre of a Pearsall-type plan increases--the possibility that a local community might have such strong feelings about segregation that it would choose to close a local school, or schools, to avoid desegregation. The Caswell County public opinion poll shows that pressure for such action varies directly with the degree of integration. Therefore, such action may be more likely in North Carolina's eastern counties where the State's Negro population is most heavily concentrated.[140]

NOTES

1. Civil Rights U.S.A. Public Schools Southern States 1962, North Carolina, pp. 57-105 (hereinafter cited as Southern States Report).

2. Id. at 102.

3. N.C.G.S. secs. 115-176 - 115-179 (1955 ch. 366, secs. 1-3; amended, 1956, Ex. Sess. ch. 7, secs. 1-3).

4. Brown v. Board of Education, 347 U.S. 483 (1954).

5. See Southern States Report at 65.

6. 227 F.2d 789, 790 (4th Cir. 1955).

7. Carson v. Warlick, 238 F.2d 724 (4th Cir. 1955), cert. denied, 353 U.S. 911 (1957); Covington v. Edwards, 165 F. Supp. 957 (M.D.N.C. 1958), aff'd, 264 F.2d 780 (4th Cir. 1959), cert. denied, 361 U.S. 840 (1959); Holt v. Raleigh City Board of Education, 164 F. Supp. 853 (E.D.N.C. 1958), aff'd, 265 F.2d 95 (4th Cir. 1959), cert. denied, 361 U.S. 818 (1959); McKissick v. Durham City Board of Education, 176 F. Supp. 3 (M.D.N.C. 1959); Jeffers v. Whitley, 197 F. Supp. 84 (M.D.N.C. 1961), rev'd., 309 F.2d 621 (4th Cir. 1962); Morrow v. Mecklenburg County Board of Education, 196 F. Supp. 109 (W.D.N.C. 1961); Wheeler v. Durham City Board of Education, 196 F. Supp. 71 (M.D.N.C. 1961), rev'd., 309 F.2d 630 (4th Cir. 1962). Cf. McCoy v. Greensboro City Board of Education, 179 F. Supp. 745 (M.D.N.C. 1960), rev'd., 283 F.2d 667 (4th Cir. 1962); Griffith v. Board of Education (Yancey County), 186 F. Supp. 511 (W.D.N.C. 1960); Vickers v. Chapel Hill City Board of Education, 196 F. Supp. 97 (M.D.N.C. 1961).

8. See following decisions, supra, note 7: Wheeler v. Durham City Board of Education; Covington v. Edwards; McKissick v. Durham City Board of Education; McCoy v. Greensboro City Board of Education (rev'd. on other grounds); Jeffers v. Whitley.

9. See following decisions, supra, note 7: Jeffers v. Whitley; Wheeler v. Durham City Board of Education. But see McCoy v. Greensboro City Board of Education.

10. See following decisions, supra, note 7: Jeffers v. Whitley; Wheeler v. Durham City Board of Education; McKissick v. Durham City Board of Education.

11. See following decisions, supra, note 7: Holt v. Raleigh City Board of Education: Jeffers v. Whitley; McKissick v. Durham City Board of Education; Wheeler v. Durham City Board of Education.

12. See following decisions, supra, note 7: Jeffers v. Whitley; Morrow v. Mecklenburg County Board of Education; Vickers v. Chapel Hill City Board of Education.

13. See following decisions, supra, note 7: Griffith v. Board of Education of Yancey County; McCoy v. Greensboro City Board of Education; Vickers v. Chapel Hill City Board of Education; Wheeler v. Durham City Board of Education.

14. See note 4 supra.

15. "Report of the North Carolina Advisory Committee on Education," Raleigh, N.C. (Apr. 5, 1956); 1 Race Rel. L. Rep. 581, 585 (1956). For history of the Pearsall Committee and resultant legislation, see Southern States Report at 65-71.

16. N.C.G.S. 115-261 - 115-295 (1956, Ex. Sess., ch. 3).

17. N.C.G.S. 115-261 - 115-266 (1956, Ex. Sess., ch. 4).

18. See Southern States Report at 71.

19. See infra at 33-39.

20. Wheeler v. Durham City Board of Education, 309 F.2d 630 (4th Cir. 1962).

21. Jeffers v. Whitley, 309 F.2d 621 (4th Cir. 1962).

22. See infra at 4-10, 18-27.

23. At 81-84.

24. See summary, app. A.

25. Griffith v. Board of Education (Yancey County), 186 F. Supp. 511 (W.D.N.C. 1960). See Southern States Report 97-100.

26. 196 F. Supp. 71 (M.D.N.C. 1961).

27. Id. at 81.

28. Ibid.

29. 210 F. Supp. 839 (M.D.N.C. 1962).

30. Id. at 842.

31. Id. at 843.

32. See note 20 supra.

33. When the court of appeals decided the Durham cases there were in the city only seven Negro elementary schools. The Fayetteville Street Elementary School (Negro) shown in map I was not completed for use until the fall of 1962.

34. 309 F.2d 630, 632 (4th Cir. 1962).

35. Id. at 633.

36. See note 21 supra.

37. Ibid.

38. Ibid.

39. 7 Race Rel. L. Rep. 1066 (1963).

40. 349 U.S. 294 (1955).

41. See map I.

42. Wheeler v. Durham City Board of Education, 210 F. Supp. 839, 841 (M.D.N.C. 1962).

43. On this point, it should be noted that a new Negro junior high school is nearing completion in the Negro Fayetteville Street zone, and land has been purchased for a new junior-senior high school to serve residents of the higher income(white) Lakewood and Morehead zones.

44. The Supreme Court held a minority transfer rule unconstitutional in Goss v. Board of Education (Knoxville) 373 U.S. 683 (1963).

45. A member of the Chapel Hill Board of Education told the Commission at its 1962 Education Conference that the Negro community wanted the plans for a new Negro Elementary school, which had been made before desegregation, carried out. Conference in Washington, D.C. Before the U.S. Commission on Civil Rights, Education 85 (1962).

46. See map II.

47. This minority transfer rule also is like that held unconstitutional by the Supreme Court. See note 44 supra.

48. Note 45 supra.

49. See map III.

50. Note 44 supra.

51. At 86-90.

52. Gilmore v. High Point City Board of Education, Civ. No._____, M.D.N.C., filed Mar. 13, 1963.

53. See map IV.

54. Ibid.

55. Jeffers v. Whitley, 309 F.2d 621, 628 (4th Cir. 1962).

56. Southern States Report 79-84.

57. U.S. Bureau of the Census, U.S. Census of Population: 1960, General Population Characteristics, final report PC(1) 35A, places its population at 1,113 people.

58. Jeffers v. Whitley 309 F.2d 621, 624 (4th Cir. 1962).

59. Ibid.

60. Minutes of Caswell County Board of Education, Sept. 5, 1955; Exhibit No. 1 to stipulation (Sept. 1959), Appendix to Appellants' Brief to Court of Appeals for the Fourth Circuit in Jeffers v. Whitley, at p. 61a. (Hereinafter referred to as Appendix to Appellants' Brief).

61. Letter dated Sept. 14, 1956; Exhibit "C" to Answer, Appendix to Appellants' Brief at p. 32a.

62. Minutes of the Caswell County Board of Education, July 16, 1957; Exhibit No. 3 to Stipulations (Sept. 1959), Appellants' Brief at p. 62a.

63. Complaint for Supplemental Pleadings, Jan. 20, 1958; Appendix to Appellants' Brief at p. 35a.

64. Ibid.

65. Jeffers v. Whitley 165 F. Supp. 951 (M.D.N.C. 1958).

66. Id. at 955.

67. 224 N.C. 221 (Sup. ct. 1956), 93 S.E. 2d 163 (1956).

68. Jeffers v. Whitley, supra note 65 at 957.

69. 176 F. Supp. 3 (M.D.N.C. 1959).

70. 164 F. Supp. 853 (E.D.N.C. 1958), aff'd, 265 F.2d 95 (4th Cir. 1959), cert. denied. 361 U.S. 818 (1959).

71. Jeffers v. Whitley, 197 F. Supp. 84, 86 (M.D.N.C. 1961).

72. Id. at 87.

73. Ibid.

74. Ibid.

75. Jeffers v. Whitley, 309 F.2d 621, 624 (4th Cir. 1962).

76. Id. at 624.

77. Id. at 625.

78. 165 F. Supp. 957 (M.D.N.C. 1958), aff'd, 264 F.2d 780 (4th Cir. 1959), cert. denied, 361 U.S. 840 (1959).

79. Jeffers v. Whitley 197 F. Supp. 84, 89 (N.D.N.C. 1961).

80. Id. at 90.

81. Id. at 91.

82. Ibid.

83. Id. at 91-92.

84. Id. at 92.

85. Ibid.

86. Ibid.

87. Ibid.

88. Ibid.

89. Ibid., citing Briggs v. Elliott, 132 F. Supp. 776 (E.D.S.C. 1955), Thompson v. County School Board (Arlington) 144 F. Supp. 239 (E.D. Va. 1956).

90. Jeffers v. Whitley, Civ. No. 1079-G, M.D.N.C., Dec. 29, 1961, 7 Race Rel. L. Rep. 22 (1962).

91. Id. at 24.

92. Jeffers v. Whitley, 309 F.2d 621 (4th Cir. 1962).

93. Id. at 627.

94. Ibid.

95. Ibid.

96. Ibid.

97. Ibid.

98. Ibid.

99. Id. at 628.

100. Order on Mandate, Jan. 2, 1963, 7 Race Rel. L. Rep. 1066 (1962).

101. Id. at 1071.

102. Id. at 1066.

103. Id. at 1067.

104. Caswell County Messenger, Jan. 3, 1963, p. 1.

105. The form of the notice was in the exact language suggested in the court's order as being sufficient. See 7 Race Rel. L. Rep. at 1067 (1962).

106. Caswell County Messenger, Jan. 3, 1963, p. 1.

107. Id., Jan. 10, 1963, p. 1.

108. Id., Jan. 3, 1963, p. 1.

109. Id., Jan. 17, 1963.

110. Ibid.

111. Ibid.

112. Ibid.

113. So. School News, Feb. 1963, p. 15.

114. One pupil dropped out at Cobb after enrolling.

115. See, for example, the Caswell County Messenger, Jan. 24, 1963, p. 1; Official Transcript of Preliminary Hearing before Superior Court of Caswell County, Mar. 6, 1963; The Caswell County Messenger, Mar. 14, 1963, p. 1.

116. The Caswell County Messenger, Jan. 24, 1963, p. 1.

117. Jeffers v. Whitley 309 F.2d 621, 628 (4th Cir. 1962).

118. Ibid.

119. The Caswell County Messenger, Feb. 14, 1963, p. 1.

120. Id., Feb. 7, 1963, p. 1.

121. Compare elevation of such private schools in 2 1961 Commission on Civil Rights, Education, 94-97.

122. In fact, on August 25, 1961, the Federal district court enjoined the Prince Edward County School Board from paying out any grant-in-aid funds or allowing any tax credits so long as the county public schools remained closed. The superintendent was further enjoined from approving any applications for State scholarship grants under a State law. Allen v. County School Board (Prince Edward) 6 Race Rel. L. Rep. 749 (1961).

123. Compare criticism of Negro education in Negro schools in Virginia, Southern States Report 213-14.

124. Caswell County Messenger, Feb. 14, 1963, p. 1.

125. Ibid.

126. Ibid.

127. Id., Feb. 21, 1963, p. 1.

128. Ibid.

129. Ibid.

130. Ibid.

131. Id. at 8.

132. Jeffers v. Whitley, 309 F.2d 621 (4th Cir. 1962).

133. Wheeler v. Durham City Board of Education, 309 F.2d 630 (4th Cir. 1962).

134. Conley v. Transylvania County Board of Education, Civ. No. 2094, W.D.N.C. Mar. 27, 1963, 8 Race Rel. L. Rep. 975 (1963).

135. 309 F.2d 621, 628 (4th Cir. 1962).

136. 309 F.2d 630, 633 (4th Cir. 1962).

137. 373 U.S. 526 (1963).

138. 309 F.2d 621, 626 (4th Cir. 1962).

139. Note 134 supra.

140. See map V.

Appendices

Appendix A

NORTH CAROLINA PUBLIC SCHOOL DESEGREGATION 1962-1963

School Districts - Desegregated Schools	Number Pupils in Desegregated Schools		Year Desegregated	Number of Schools in District			Total Pupils in District		% Negro Pupils in District	% of Negro Pupils in Desegregated Schools	Method or Plan of Desegregation
	White	Negro		Desegregated	All White	All Negro	White	Negro			
Asheville				2	8	5	7,773	2,966	27.62	2.56	Geographical (1-6 grades), plus Pupil Assignment
Newton Elem.	315	31	1961								
Claxton Elem.	621	45	1962								
Caswell County				4	5	6	2,646	3,426	56.42	0.44	Court ordered "Free Choice"
Bartlett Yancey H.S.	420	4	1963								
Bartlett Yancey Elem.	541	3	1963								
Cobb Elem.	192	4	1963								
Pelham Elem.	257	4	1963								
Chapel Hill				5	0	3	3,000	1,227	29.03	3.42	Geographical (1-6 grades), Pupil Assignment
Carrboro Elem.	493	8	1960								
Chapel Hill Jr. H.S.	714	14	1961								
Chapel Hill H.S.	512	2	1962								
Estes Hill Elem.	557	9	1960								
Glenwood Elem.	743	9	1961								
Charlotte-Mecklenburg				6	68	28	47,839	18,596	27.99	2.34	Pupil Assignment, Limited Geographical and "Option"
Bethune Elem.	25	389	1957								
Derita Elem.	975	4	1960								
Dilworth Elem.	495	33	1961								
Myers Park H.S.	1562	1	1961								
Sedgefield Elem.	584	5	1961								
Wesley Height Elem.	148	3	1961								
Craven County				4	9	8	5,530	2,720	32.97	1.87	Pupil Assignment-Servicemen's children
West Havelock Elem.	1027	20	1959								
Graham A. Borden Elem.	652	25	1959								
Havelock Jr. H.S.	368	3	1959								
Havelock H.S.	598	3	1961								
			1962								
Durham				12	3	10	7,688	7,014	47.71	1.15	Pupil Assignment, court order
Edgemont Elem	401	8	1959								
North Durham Elem.	318	2	1962								
Morehead Elem.	335	9	1962								
Geo. Watts Elem.	293	2	1962								
Holloway St. Elem.	368	6	1962								
Southside Elem.	141	1	1962								
Fuller Elem.	116	6	1961								
Carr Jr. H.S.	832	17	1959								
Brogden Jr. H.S.	581	4	1959								
Holton Jr. H.S.	546	5	1962								
Durham H.S.	1613	20	1959								
Y.E. Smith Elem.	595	1	1963								
Fayetteville				3	8	10	6,362	4,615	42.05	0.13	Pupil Assignment
Alex. Graham Jr. H.S.	1107	2	1962								
Haymount Elem.	339	3	1962								
Ramsey St. Elem.	482	1	1962								
Goldsboro				1	5	5	5,031	3,087	38.04	0.03	Pupil Assignment
Goldsboro H.S.	1088	1	1963								
			1963								
Greensboro				1	27	9	17,520	6,999	28.55	0.53	Pupil Assignment
Gillespie Park Jr. H.S. & Elem.	398	37	1957								
			1957								
			1957								
High Point				4	9	5	8,991	3,067	22.12	0.68	Pupil Assignment
Montlieu Ave. Elem.	567	3	1959								
Cloverdale Elem.	483	1	1961								
Ferndale Jr. H.S.	1263	8	1962								
Central H.S.	1543	9	1959								
			1962								
New Hanover County				1	16	9	11,539	5,417	31.95	0.02	Pupil Assignment
Chestnut Jr. H.S.	1219	1	1962								
			1962								
Raleigh				5	16	9	12,463	5,360	30.07	0.87	Pupil Assignment
Frances Lacy Elem.	676	2	1960								
Murphy Elem.	334	1	1962								
Josephus Daniel Jr.	1130	14	1960								
Needham Broughton H.S.	1865	4	1961								
W.G. Enloe H.S.	833	36	1961								
			1962								
Reidsville				2	4	3	2,811	1,698	37.66	0.12	Pupil Assignment
South End Elem.	459	1	1963								
North End Elem.	246	1	1963								
Salisbury				1	5	3	2,811	1,698	32.54	0.22	Pupil Assignment
F.B. John Elem.	446	3	1963								
			1963								
Transylvania County				2	6	1	3,780	290	7.13	2.41	Pupil Assignment
Brevard Sr. H.S.	570	5	1962								
Brevard Jr. H.S.	638	2	1962								
			1962								
Wayne County				2	12	5	7,812	4,233	35.15	0.61	Pupil Assignment, Servicemen's children
Meadow Lane Elem.	348	6	1959								
Greenwood Jr. H.S.	1130	20	1959								
			1962								
Winston Salem				2			12,977	10,304	44.26	0.18	Pupil Assignment
Easton Elem.	322	18	1957								
North Elem.	186	1	1958								
			1962								
Yancey County				2	7	1	3,600	28	0.77	28.57	Court Order
East Yancey H.S.	534	4	1960								
West Yancey H.S.	486	4	1960								
			1960								
Totals	36,630	878		89	208	120					

Appendix B

YANCEYVILLE PUBLIC ATTITUDES SURVEY

Percentage Distribution of Responses to Selected Questions[1]

Question	White (%)	Negro (%)
1. During the last few years, have race relations in Caswell County changed very much, either for better or for worse?		
a. No. about the same	35	45
b. Yes, gotten better	4	15
c. Yes, gotten worse	61	40
2. Do you approve or disapprove of the recent court decision requiring Caswell County to desegregate its public schools?		
a. Approve	4	57
b. Not sure	16	31
c. Disapprove	80	12
3. Do you think the Federal court had a legal right to issue an order requiring Caswell County to desegregate its schools?		
a. Yes	21	67
b. No	58	7
c. Undecided; don't know	21	26
4. How many Negro children are attending formerly all-white schools in Caswell County?		
a. Correct answer	30	26
b. Wrong answer		
(1) Close answer (within plus or minus one)	10	3
(2) Not close	60	71
5. How many Negro children are attending formerly all-white Bartlett Yancey School in Yanceyville?		
a. Correct answer	38	26
b. Wrong answer		
(1) Close answer (within plus or minus one)	26	21
(2) Not close	36	53

Question	White (%)	Negro (%)
6. How many of the Negro people in Caswell County do you think really want to have white and Negro students go to the same school together?		
a. All of them do	0	3
b. Most of them do	2	20
c. About half of them do	4	17
d. Less than half do	10	11
e. Only a few do	78	37
f. None of them do	6	11
7. In your opinion, how many of the white people in Caswell County are willing to have Negro and white students go to school together?		
a. All of them	0	0
b. Most of them	0	3
c. About half of them	0	3
d. Less than half of them	10	3
e. Only a few of them	62	53
f. None of them	29	38
8. Which would you personally rather do:		
a. Close the schools rather than have them integrated	32	
b. Close them if they are integrated about a third Negro	11	
c. Close them if they are integrated about a half Negro	18	
d. Close them if they are integrated over a half Negro	5	
e. Keep them open in any event	34	
9. If an election were held tomorrow, how would you vote:		
a. To keep the schools open	83	
b. To close them	17	
10. Would you be in favor of setting up a private school for white students in place of the public schools?		
a. Yes	40	
b. No.	42	
c. Undecided	17	
11. Do you think a private school system would work?		
a. Yes	35	
b. No	46	
c. Undecided	19	

Question	White (%)	Negro (%)
12. Have you heard anything about private school systems in other places and how well they are working out?		
a. Yes	62	
b. No	38	
13. Some people believe that Negroes are being paid to send their children to white schools. Have you heard anything about this, and, if so, do you believe it is true?		
a. Have not heard	13	86
b. Heard and believe	61	0
c. Heard but disbelieve	16	14
d. Heard but don't know	11	0
14. Which schools give a child a better education in your opinion:		
a. White schools	51	18
b. Negro schools	7	41
c. Integrated schools	0	13
d. No difference	42	28
15. In your opinion, which school makes the students work and study harder:		
a. White school	58	18
b. Negro school	3	55
c. No difference	40	27
16. FOR NEGRO RESPONDENTS WITH CHILDREN ATTENDING NEGRO SCHOOLS: Do you expect to keep on sending your (child, children) to the Negro school, or do you think you might send (him, her, them) to the white school instead?		
a. Continue at Negro school		79
b. White instead		0
c. Don't know; depends on developments		21
17. FOR NEGROES: If you have a child going to an integrated school, you would want him to have a:		
a. Negro teacher		33
b. White teacher		0
c. No preference		68

Question	White (%)	Negro (%)
18. FOR NEGROES: Which do you think do a better job, white teachers or Negro teachers?		
a. White		2
b. Negro		31
c. No difference		24
d. Don't know		43
19. Have you formed an opinion about the Jasper Brown shooting and, if so, who do you think was at fault?		
a. No opinion	35	36
b. Brown's fault	47	0
c. Whites' fault	6	64
d. Both at fault	12	0
20. When the Federal courts tell a Southern community to integrate its schools, do you think the community should:		
a. Obey	59	
b. Resist, but do not use force	10	
c. Resist, with force	8	
d. Undecided; don't know	24	

1. In some instances the percentages total more or less than 100 because they were rounded-out.

Maps

MAP I
PROPOSED DURHAM SCHOOL ZONES-1963-64

Negro School Zones

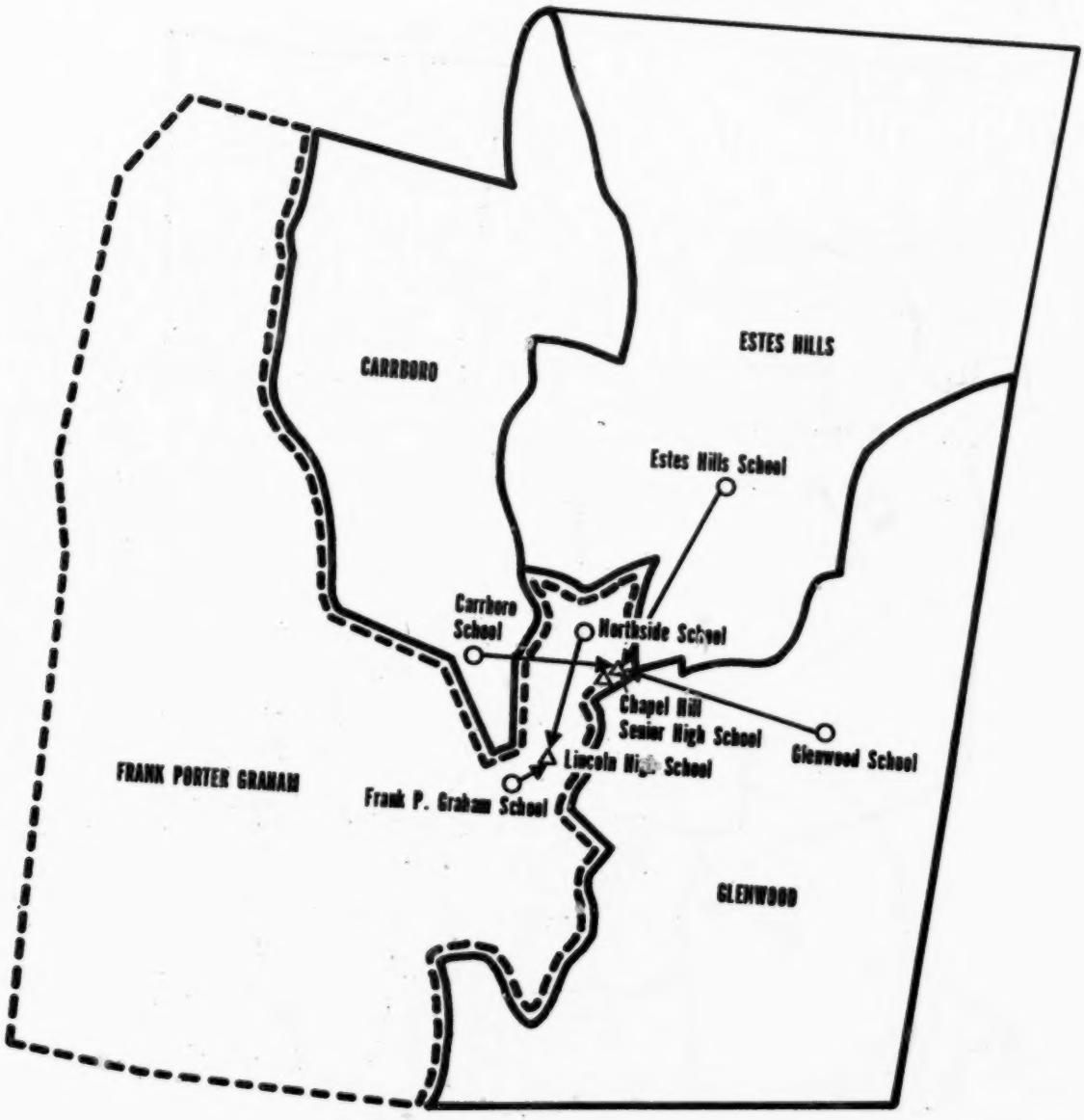
White School Zones

Feeder Zones to Receiving Junior and Senior High Schools

Elementary Schools

Junior and Senior High Schools

MAP II
CHAPEL HILL SCHOOL ZONES-1962-63



Negro School Zones

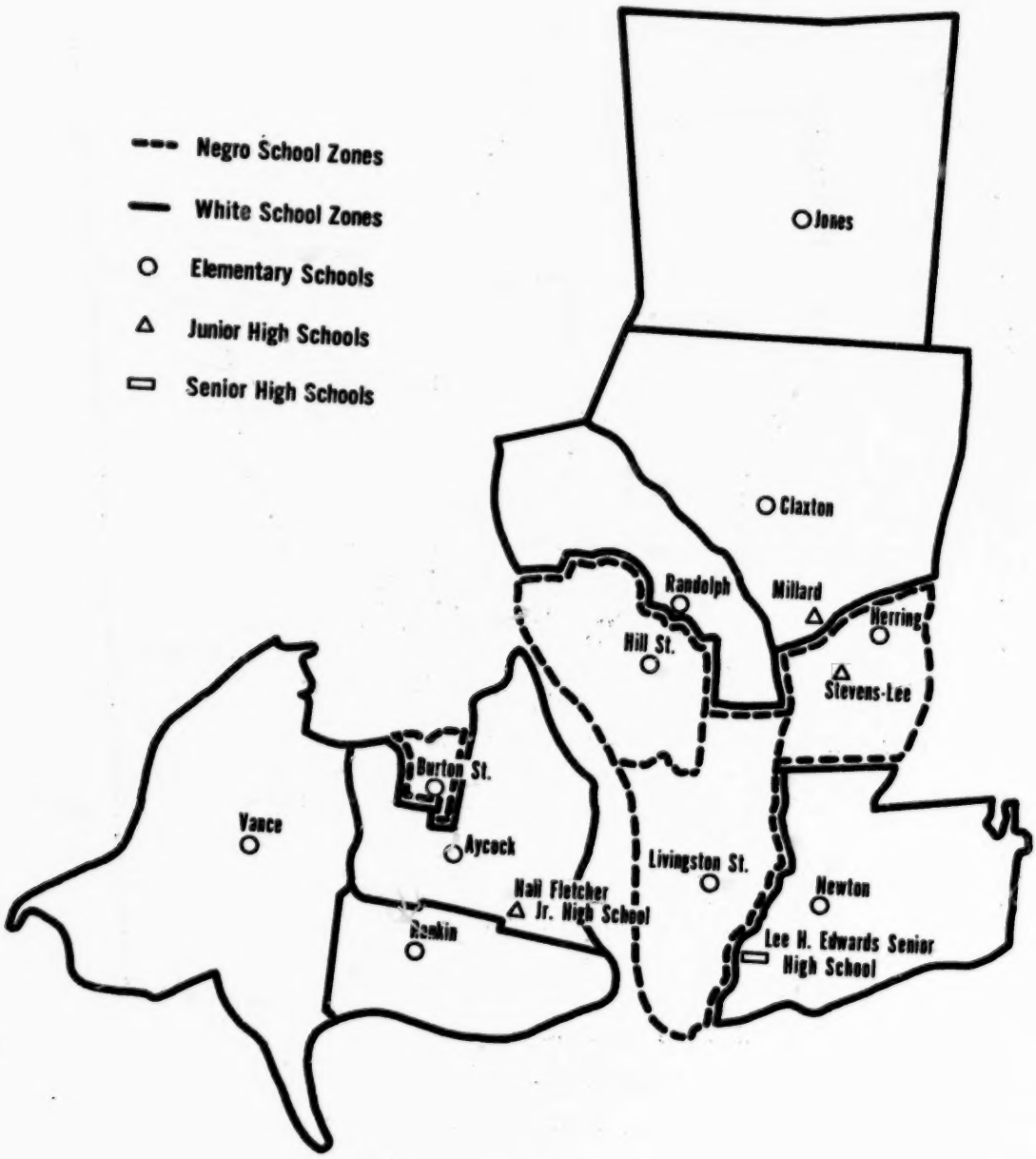
White School Zones

Feeder Zones to Receiving Junior and Senior High Schools

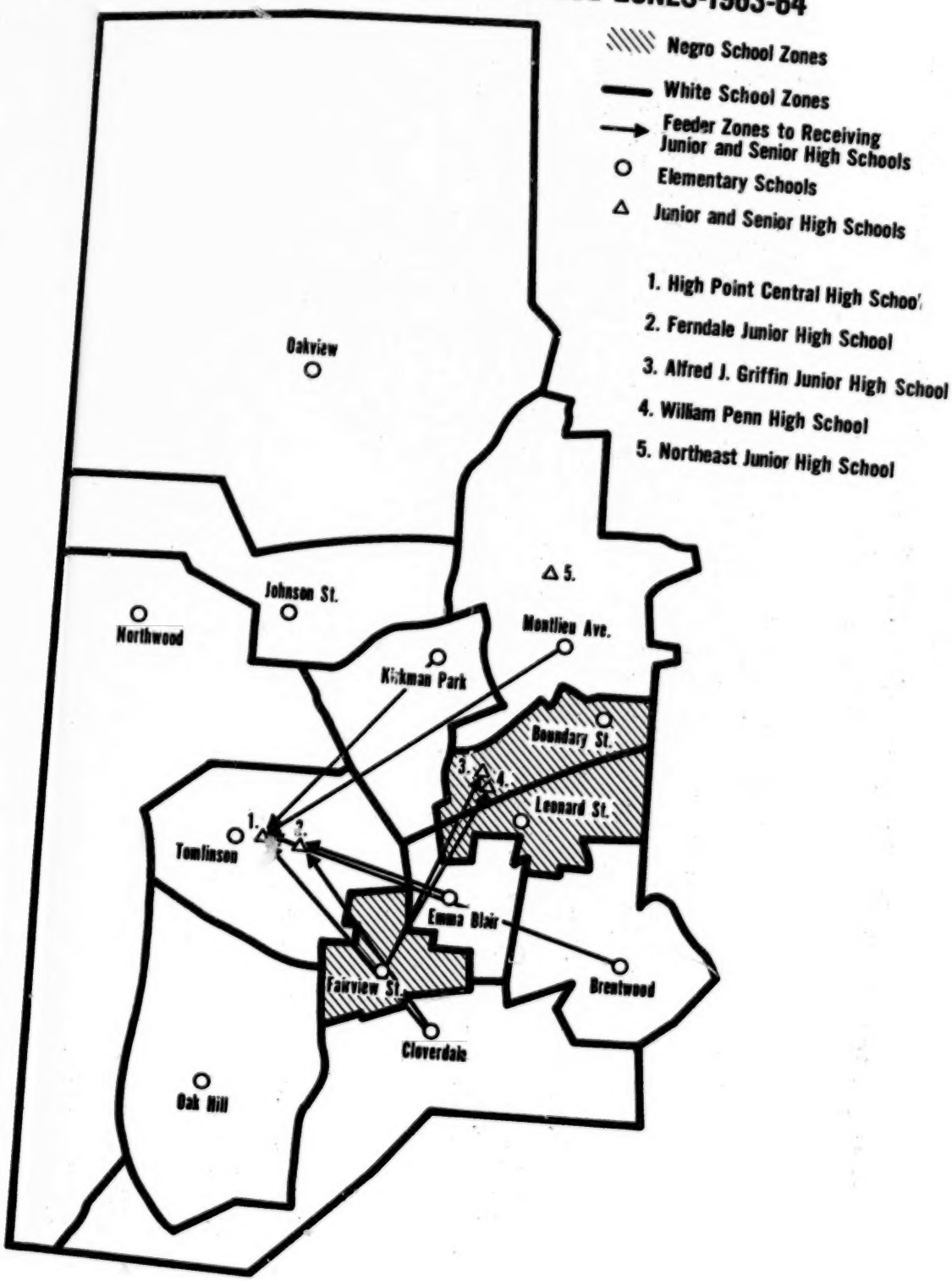
Elementary Schools

Junior and Senior High Schools

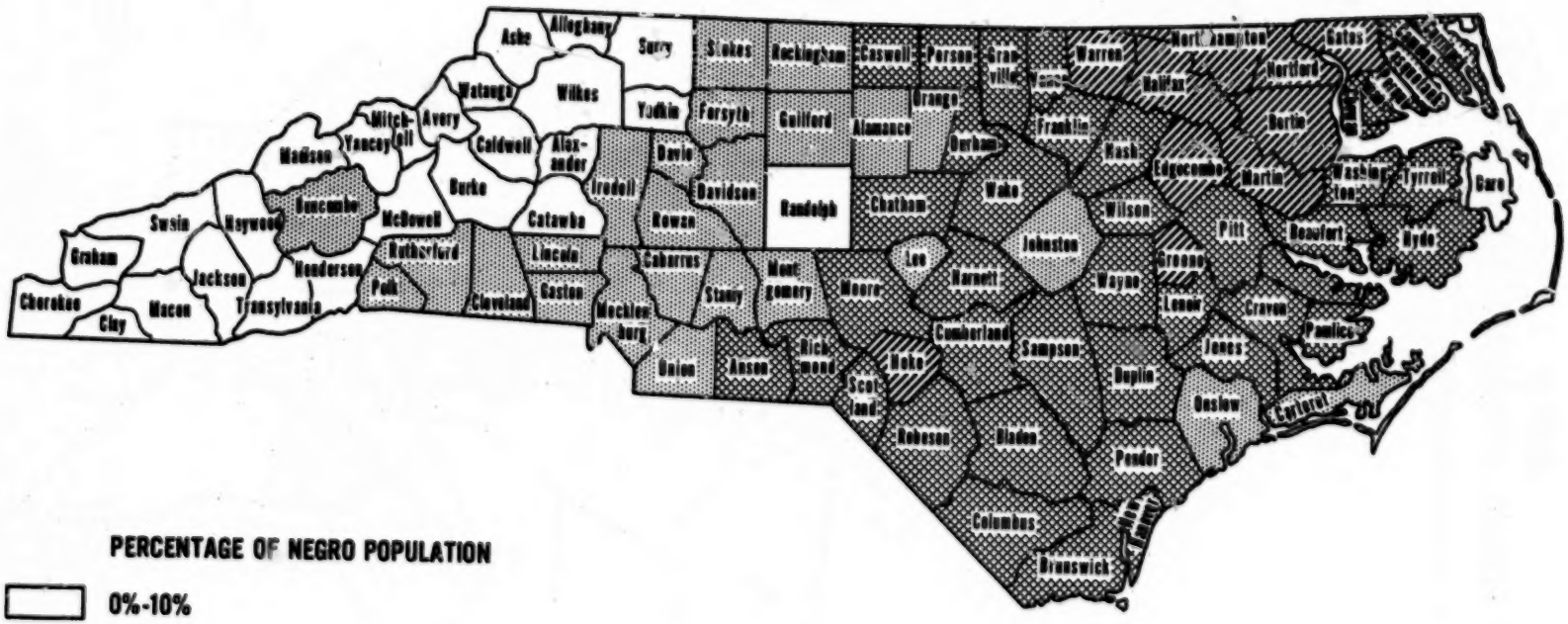
MAP III
ATTENDANCE AREA ZONES FOR ASHEVILLE CITY SCHOOLS 1962-63



MAP IV
HIGH POINT SCHOOL ATTENDANCE ZONES-1963-64



MAP V
PERCENTAGE OF NEGRO TO TOTAL POPULATION BY COUNTIES IN NORTH CAROLINA
(1960 CENSUS)



PERCENTAGE OF NEGRO POPULATION

- 0%-10%
- 10%-25%
- 25%-50%
- OVER 50%

GSA-WASH DC 64-14628